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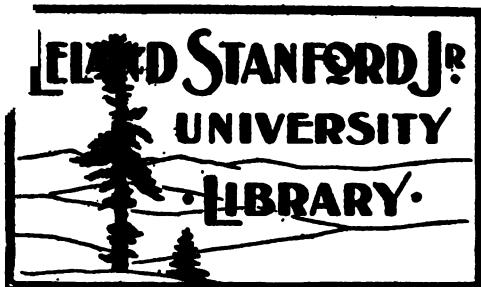
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JOURNAL OF SOCIAL SCIENCE,

CONTAINING THE

PROCEEDINGS OF THE AMERICAN ASSOCIATION.

NUMBER XXXVII.

DECEMBER, 1899.

SARATOGA PAPERS OF 1899.

PAPERS READ IN THE DEPARTMENTS OF EDUCATION,
HEALTH, JURISPRUDENCE, FINANCE, AND SOCIAL
ECONOMY, WITH STENOGRAPHIC
NOTES OF DEBATES.



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EDITED BY

FREDERICK STANLEY ROOT, M.A.

GENERAL SECRETARY OF THE ASSOCIATION, 129 EAST 15TH STREET
NEW YORK CITY

APR 24 1900

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INTRODUCTION.

The papers included in this number of the *Journal of Social Science* comprise all of the Saratoga addresses of 1899. The debates, which followed the reading of papers are stenographically reported; but, owing to the large amount of matter thus supplied to the editor, a considerable reduction in quantity was necessitated by the space limitations of the present volume. This stenographic matter has been revised either by the editor or by the contributor to the discussion, and fairly represents, in substance, the opinions of the participant in the debate.

It may be well in this place to remind essayists once more of the *invariable rule* of the Association, that all papers engaged for the General Meeting are so secured with the understanding that they may be published in the *Journal* if deemed advisable. The members of the Council, however, are not pledged in advance to the publication of any particular paper. If writers choose to publish elsewhere, it must be with the stipulation that their papers may also be printed in the *Journal*, at the option of the Council as to date of publication. Heads of Departments are not solicitous to secure essays which, in general form and substance, have been read elsewhere before presentation at Saratoga.

A list of all addresses and papers will be found in the Table of Contents on page iii.

MEMBERS OF THE ASSOCIATION.

All officers are *ex-officio* members of the Association; but persons serving on the Department Committees may or may not be members of the Association. In view of the fact that Department Committees are greatly in need of reorganization upon a basis of *active participation* in the work of the Association, the General Secretary deems it wise to omit the list until such organization is deemed advisable. This, of course, is exclusive of *Heads of Departments* whose names appear in the list of the officers of the Association.

In the list herewith submitted the annual and life members are given alphabetically, and the honorary and corresponding members according to nationality. The only distinction between honorary and corresponding members is that the former reside in the United States, and the latter in foreign countries. According to a minute enacted by the General Council, Dec. 17, 1897, the name of any member who has not paid his dues for the three calendar years next preceding the date adopted — March 1, 1898 — shall be stricken from the rolls. It was also voted at this meeting that the *Journal* of the Association shall not be sent to any member who has not paid his dues for the year in which the convention is held which is reported in the *Journal*. It was subsequently voted at a council meeting held in Woodmont, Conn., July 6, 1898, that the General Secretary be permitted to use his discretion in carrying into effect these resolutions.

BUSINESS OF 1899.

The American Social Science Association held its Thirty-seventh Annual Meeting at Saratoga, beginning Monday evening, September 4, and closing with the session of Friday morning, September 8. The proceedings of the several departments were conducted in Grand Army Hall, and a wide degree of interest was manifested in the various important papers presented. The opening address of President Baldwin, on "The Natural Right to a Natural Death," covered a theme unique in character and method of treatment; and the essays of other notable speakers dealt with topics of national interest now uppermost in the public mind. The address of the General Secretary summarized briefly the work of the Association for the year.

Following the report of the General Secretary, a Nominating Committee was appointed to bring in a list of officers for the ensuing year. That committee consisted of Hon. St. Clair McKelway, W. A. Giles, Esq., E. H. Avery, Esq., Hon. Lyman D. Brewster, and Rev. Joseph Anderson, D.D. At a subsequent meeting of the Association the list of officers, as reported by the committee, was adopted; and the names will be found on a succeeding page of the *Journal*.

Under the head of "Miscellaneous Business," the matter of the incorporation of the Association, delegated to a special committee at preceding meetings of the General Council, was presented, and the subjoined vote was passed:—

Voted, That the American Social Science Association at its regular session duly warned and held next after the approval by the President of the United States of an Act entitled "An Act to incorporate the American Social Science Association," enacted by the Fifty-fifth Congress at its Third Session, and approved Jan 28, 1889, hereby accepts said Act, and incorporates under its provisions.

Voted, That the General Secretary file a certified copy of the foregoing vote with the proper authorities at Washington.

Voted, That the several recommendations of the Council relative to said Charter, and to incorporate under the same, are hereby approved and adopted.

Voted, That the present Constitution, Rules, and By-laws heretofore governing the American Social Science Association as an incorporated body be, and they hereby are, adopted as the Constitution, Rules, and By-laws of the American Social Science Association as now incorporated under the Charter from the United States.

Voted, That the President, Secretary, and Treasurer be authorized to make any and all transfers and conveyances which they may deem proper to make of all the archives and property of the American Social Science Association, as a voluntary body, to the American Social Science Association as a corporation.

And, at a special session of the General Association held on Tuesday morning, September 5, it was further

Voted, That the President and General Secretary be requested to endeavor to arrange for the assignment to the Association of some suitable room and place in one of the government buildings at Washington for the deposit of its archives, library, and collections, or such of them as may be thought best so to deposit, and as the permanent central office of the Association in the District of Columbia.

Voted, That the place or places of holding the future meetings of the incorporated Association be such place or places within the United States as may from time to time be fixed for the same by the Council of the Association.

And at the closing business session of the Association held on Friday morning, Hon. St. Clair McKelway presented the following resolutions referring to President Baldwin, which were unanimously adopted and ordered placed upon the minutes of the meeting : —

Resolved, That the American Social Science Association has heard with regret the earnest desire of the Hon. Simeon E. Baldwin to be relieved of the presidency of this body, and grants his request with unfeigned reluctance.

That the members congratulate him on the excellent record the Association has made under his leadership, and on the unity, fellowship, and earnestness of spirit which have marked this body in the time of his administration of office.

That we thank him for his valuable contributions to the literature of Social Science by his addresses, and by the addition of his large learning, his profound thought, and his luminous wisdom to our current discussions.

That every officer has found in him an ideal colleague, and every member is under obligations to his courtesy, his justice, his precision, and his constant willingness to place all his ripened knowledge at the service of their own minds in the common search for light and truth.

That we shall always recall with gratitude and admiration the impartiality, directness, clearness, dignity, and sincerity of his discharge of parliamentary duties, and that we wish for him full measure of happiness and prosperity in all fields of learning in which he works for his country and for the welfare of humanity in the world.

The following resolution referring to Mr. Anson Phelps Stokes, former Treasurer of the Association, and recently the victim of a severe injury, was also unanimously adopted and ordered on file : —

Resolved, That the American Social Science Association has greatly missed the presence of Mr. Anson Phelps Stokes from its sessions at this meeting; that this body profoundly regrets the grave injury of which Mr. Stokes has been the sufferer; that we rejoice that the aids of affection and of science have been effective to place him on the road to recovery; that we send him our warm wishes for his early restoration to strength and activity; and that we hope many noble causes which benefit by his energy and wisdom may long enjoy the advantage of his counsel and of his service.

In addition to the general miscellaneous business above noted and transacted at the general session of the Association, the ensuing proceedings occurred at the annual meeting of the General Council of the Association held at the United States Hotel on Wednesday afternoon, September 6.

There were present at the Council, in addition to the President and General Secretary, W. A. Giles, Esq., Professor Isaac Franklin Russell, Rev. Joseph Anderson, D.D., Hon. St. Clair McKelway, Dr. W. H. Daly, Hon. F. B. Sanborn, and Professor W. F. Willcox.

The minutes of the previous meeting were read and approved.
It was then

Voted, to accept the invitation of the Managing Committee of the Congress on Trusts, to be assembled in Chicago September 13, to send delegates to that body from the American Social Science Association. And in conformity to this vote W. A. Giles, Esq., of Chicago, Professor Charles H. Henderson, of Chicago University, and William H. Daly, M.D., were appointed to represent the Association; and they were duly accredited by the General Secretary.

(The report of this committee, prepared by W. A. Giles, Esq., will be found in the Appendix to this volume.)

In furtherance of action to define the existing status between the "National Institute of Arts and Letters" and the "American Social Science Association," it was also

Voted, That the letters of the National Institute of Arts and Letters be placed on file for the information of the officers of this body; that the members of the Institute be *ipso facto* associate members of the Association in return for the courtesy of the Institute in making members of the Association associate members of the Institute; that associate members of the Institute be accorded the privilege of the floor at meetings, but not the right to vote or to receive the volumes of our Transactions free of charge.

The following vote was also passed relative to the order of days on which department sessions should be held at the next annual meeting :—

Voted, That the order of days for the several departments for the meeting of 1900 be thus arranged :—

Tuesday, Department of Health; Wednesday, Department of Education and Art; Thursday, Department of Social Economy and Finance; Friday, Department of Jurisprudence.

And, further, that on each subsequent year the department having the last day on the year preceding shall have the first day, and so on in regular order as above, subject always to such variation of days in case of emergency as the President and General Secretary may direct, on consultation with heads of departments.

The report of the Treasurer was then adopted and placed on file. It was then

Voted, That the resolutions from Institute of Arts and Letters be placed on minutes.

Voted, That all matters of printing be left to the President and General Secretary.

Voted, That the resignation of Mrs. Caroline H. Dall, one of the Vice-Presidents of the Association, be not accepted.

Voted, That the Council adopt, as the corporate seal of the Association, a device submitted, bearing the motto "Ne Quid Nimis," and that this seal be used on the title-page of the future issues of the *Journal of Social Science*.

This vote was based upon a report of a sub-committee, consisting of Hon. S. E. Baldwin, Hon. F. J. Kingsbury, and the General Secretary, to whom the matter was referred.

Voted, That the following gentlemen serve as committee on admission of new members, after adjournment of session, until the next meeting of the Council: H. Holbrook Curtis, M.D., Hon. Charles A. Peabody, Samuel L. Parrish, Esq., Henry L. Wagner, M.D., Daniel R. Noyes, Esq., and Rev. W. S. Rainsford, D.D.

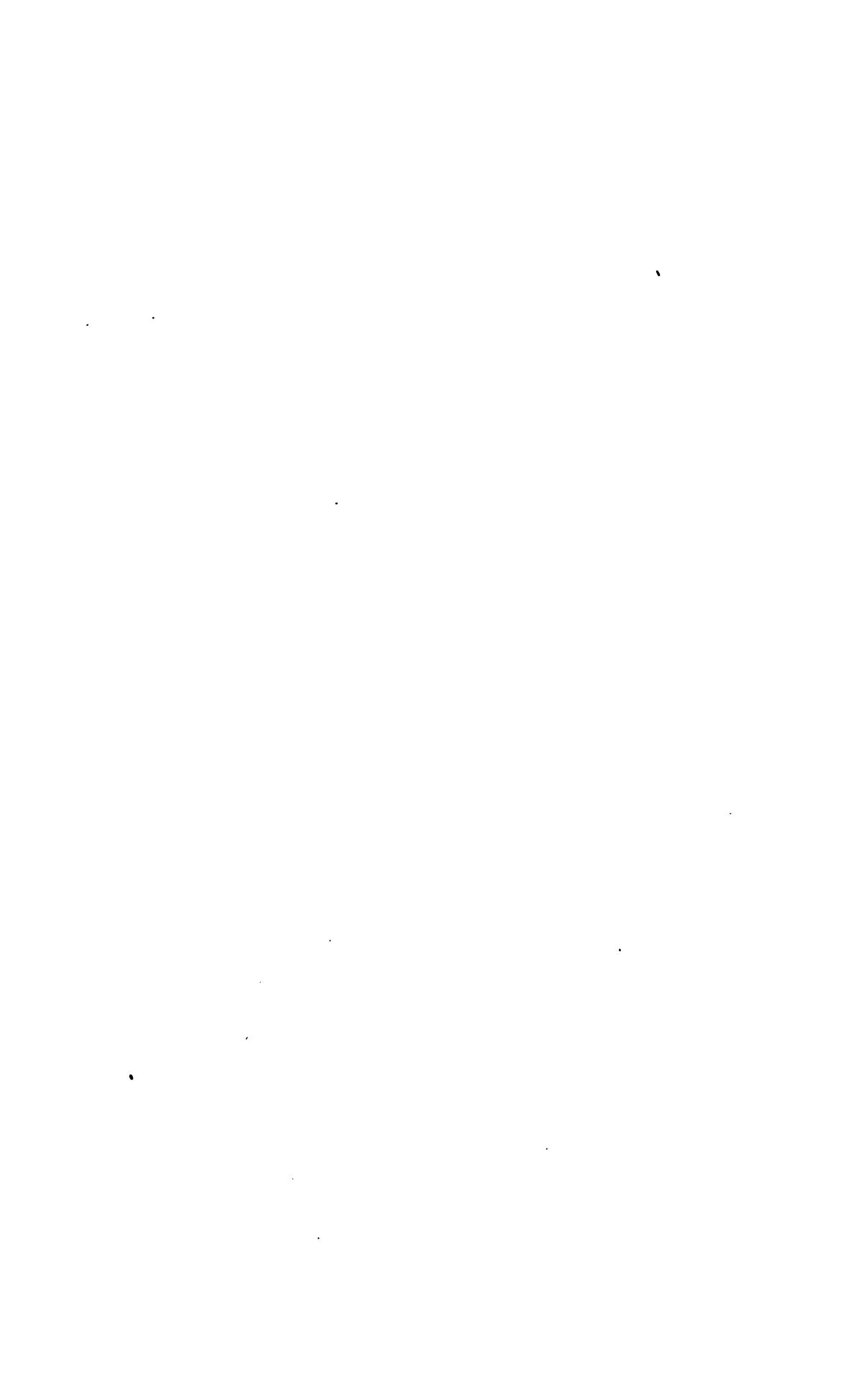
Voted, That the next annual meeting of the Association be held at Washington, D.C., the second week in May.

At a subsequent meeting of the Council in New York this vote was amended to read "the first week in May, the opening session to be held Monday evening, April 30, 1900."

The Council then adjourned without date, having completed the immediate business of the Association.

FREDERICK STANLEY ROOT,
General Secretary.

CONSTITUTION,
LIST OF OFFICERS, MEMBERS, ETC.,
OF THE
American Social Science Association
DECEMBER, 1899



CONSTITUTION.

I. This Society shall be called the AMERICAN SOCIAL SCIENCE ASSOCIATION.
II. Its object shall be classified in five departments: the first, of Education and Art; the second, of Health; the third, of Trade and Finance; the fourth, of Social Economy; the fifth, of Jurisprudence.

III. It shall be administered by a President, as many honorary Vice-Presidents as may be chosen, a Treasurer, a Secretary, and a Council, charged with general supervision; five Department Committees, established by the Council, charged with the supervision of their respective departments; and such Local Committees as may be established by the Council at different points, to serve as branch associations. *The Council shall consist of President, Treasurer, and Secretary, the Chairman and Secretary of each Department, and ten Directors, with power to fill vacancies and to make their own By-laws.* The President, Vice-Presidents, Treasurer, Chairman, and Secretaries of Departments, and Directors shall be chosen annually by members of the Association, and shall hold office till their successors are chosen. The President, or in his absence a Director, shall be Chairman of the Council. The Chairmen of the Local Committees shall be chosen at the pleasure of their respective committees. Whenever a Branch Association shall be organized and recognized as such by the Council, its President shall be *ex officio* one of the Vice-Presidents of the American Association, and, together with the Secretary and Treasurer, shall be entitled to all the privileges of membership in that Association. And, whenever a Local Department shall be organized and recognized as such by the Council, its Chairman shall become *ex officio* a member of the parent Association. The Chairman and Secretary of each Department, with the consent of the President of the Association, may appoint such special Department Committees as they may think best. The General Secretary shall be elected for three years, unless he resigns, or is removed by a two-thirds vote of the members present and voting in a regular meeting of the Council; and out of his compensation he may pay the salary of an Assistant Secretary, who may also be Secretary of one Department.

IV. Any person, upon nomination by the Council, may become a member by paying five dollars, and may continue a member by paying annually such further sum as may be fixed at the Annual Meeting, not exceeding ten dollars. On payment of one hundred dollars, any person may become a life member exempt from assessments. Honorary and corresponding members may be elected, and exempted from the payment of assessments.

V. The Council shall have sole power to call and conduct General Meetings, and to publish the Transactions and other documents of the Association. The Department Committee shall have power to call and conduct Department Meetings.

VI. No amendment of this Constitution shall be made, except at an annual meeting, with public notice of the proposed amendment.

OFFICERS OF THE ASSOCIATION.

1899-1900.

President, CHARLES DUDLEY WARNER, Hartford, Conn.

First Vice-President, F. J. KINGSBURY, LL.D., Waterbury, Conn.

Vice-Presidents.

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General Secretary, Rev. FREDERICK STANLEY ROOT, M.A., 129 E. 15th St., New York.

Treasurer, W. C. LEGENDRE, 59 Wall St., New York.

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- II. *Health*.—WILLIAM H. DALY, M.D., Pittsburg, Pa., *Chairman*; ELMER LEE, M.D., New York, *Secretary*.
- III. *Finance*.———, *Chairman*; Prof. SAMUEL M. LINDSAY, Ph.D., Philadelphia, Pa., *Secretary*.
- IV. *Social Economy*.—Hon. F. B. SANBORN, Concord, Mass., *Chairman*; JOHN W. KIRKLAND, Schenectady, N.Y., *Secretary pro tem*.
- V. *Jurisprudence*.—Prof. FRANCIS WAYLAND, LL.D., New Haven, Conn., *Chairman*; Prof. ISAAC F. RUSSELL, New York City, *Secretary*.

Executive Committee.

Hon. S. E. BALDWIN, LL.D., *President*; Rev. F. S. ROOT, *General Secretary*; W. C. LEGENDRE, *Treasurer*; Rev. JOSEPH ANDERSON, D.D., *Education and Art Chairman*; Dr. WILLIAM H. DALY, *Health Chairman*; Prof. FRANCIS WAYLAND, LL.D., *Jurisprudence Chairman*; ———, *Finance Chairman*; Hon. F. B. SANBORN, *Social Economy Chairman*.

LIFE MEMBERS.

Extract from Constitution : "On payment of one hundred dollars, any person may become a Life Member, exempt from assessments."

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Baldwin, Hon. S. E., LL.D., New Haven, Conn.
*Barnard, Mr. James M., Boston, Mass.
Barnard, Mrs. James M., Boston, Mass.
Blatchford, Mr. J. S., Boston, Mass.
Bradford, Mr. Gamaliel, Boston, Mass.
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*Dike, Mr. Henry M., New York City.
Dodge, Mr. Charles C., New York City.
Dodge, William E., Jr., New York City.
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Libbey, Mr. Jonas M., New York City.
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Patterson, W. H., 275 Fifth Avenue, New York City.
*Robeson, Mr. William R., Boston, Mass.
Sanborn, Hon. Frank B., Concord, Mass.
Sanborn, Mrs. Louisa L., Concord, Mass.
Smith, Prof. Goldwin, LL.D., Toronto, Canada.
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Stokes, Mr. I. N. Phelps, New York City.
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Wigglesworth, Dr. Edward, Boston, Mass.
Wolcott, Miss Ella L., Elmira, N.Y.
Wolcott, Hon. Roger, LL.D., Boston, Mass.
Young, Mr. J. Edward, New York City.

[Names marked with star [*] cannot be found by post-office officials.]

HONORARY AND CORRESPONDING MEMBERS.

[NOTE.—The names on this list marked with a *star* are those of persons who cannot be found by post-office officials. In each case the letters were forwarded and were returned to the editor as evidence of the inability of the authorities to find the person to whom communications were addressed.]

In America.

Prof. J. Irving Manatt, Providence,
R.I.
Henry Barnard, LL.D., Hartford,
Conn.
Major-Gen. O. O. Howard, Portland,
Ore.
Edmund A. Meredith, Esq., care The
Toronto Income Trusts Co., Yonge
St., Toronto, Can.
Hon. Domingo F. Sarmiento, Buenos
Ayres.
Lewis A. Sayre, M.D., 795 Broadway,
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In Great Britain and Ireland.

Sir Walter Crofton, The Close, Win-
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Lord Radstock, London.
Miss Frances Power Cobbe, 24 Cheyne
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Thomas H. Barker, Esq., Manchester.
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Herbert Spencer, Esq., London.
Miss J. Francis Dove, St. Andrews,
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Lord Hobhouse, 15 Bruton St., Lon-
don.
Prof. James Bryce, M.P., London.
Geoffrey Drage, Esq., London.
Moncure Daniel Conway, Esq., Lon-
don.

In France.

*M. Émile Muller, Paris.
M. Joseph Garnier, 14 Rue Richelieu,
Paris.
*M. August Laugel, 19 Rue de la Ville
l'Évêque, Paris.
*M. Emile Cacheux, Paris.
M. Émile Trelat, Paris.
*M. F. Buisson, Paris.
M. Émil Levasseur, 24 Rue Monsieur
le Prince, Paris.
M. Arthur Raffalovich, 19 Avenue
Hoche, Paris.
M. Pierre Claudio Jannet, 22 Rue
Oudinot, Paris.

In Germany.

Dr. Ernest Engel, Royal Statistical
Bureau, Berlin.

In Italy.

Signor Martino Beltrani-Scalia, Rome.
Prof. C. F. Gabba, Pisa.
Prof. Alberto de Errea, Cavaliere
della Corona d'Italia, Venice.

In Hungary.

*M. E. Horn, M.P., Budapest.

In Belgium.

*M. P. Buls, Brussels.
M. Van de Rest, Brussels.

LIST OF ANNUAL MEMBERS JAN. 1, 1900.

[NOTE.— In explanation of the comparatively late appearance of the *Journal* for 1899 the editor desires to state that, owing to the work of the Committee on the Admission of New Members, which has resulted in the addition of several hundred new names, it was deemed advisable to defer publication until such list should be reasonably complete. It would be manifestly misleading and absurd to print the *Journal* prior to such incorporation, although the continued work of the Committee will add still other names to Treasurer's books; and, for this reason, the roll as published will always be more or less incomplete. The work of tabulating and verifying has been one of no inconsiderable magnitude for all engaged. In the nature of the case, when dealing with nearly nine hundred names, errors will creep in, although much care has been exercised.

With reference to this enrollment some explanations are essential, and they are as follows:—

The "National Institute of Arts and Letters," organized under the auspices of the American Social Science Association, but now an independent body, still retains a certain connection with the Association in the form of Associate Memberships. The following clauses from vote passed at the Saratoga meeting of the Association define the existing status:—

Voted, That the members of the Institute be *ipso facto* associate members of the Association in return for the courtesy of the Institute in making members of the Association associate members of the Institute.

In the list subjoined such associate members are marked with a *star*. In the matter of academic titles such only are given as are known; and the urgent need of going to press at no later day forbade opportunity for diligent personal inquiry involving a large correspondence. Members are earnestly solicited to communicate with the editor at once respecting academic titles, and also to correct any errors which may be found upon the roll. All resignations should also be promptly reported to the permanent address of the General Secretary, 129 E. 15th Street, New York City.]

*Abbey, Edwin A., Fairford, England.	Addam, Miss Jane, Hull House, Chicago.
Abbot, Francis E., Ph.D., 43 Larch St., Cambridge, Mass.	Ade, George, the <i>Record</i> , Chicago.
Abbott, Samuel W., M.D., 142 State St., Boston, Mass.	Adler, Dankmar, 3543 Ellis Ave., Chicago, Ill.
Abrahams, A., 800 St. Marks Ave., Brooklyn.	Agar, John E., 31 Nassau St., New York.
Adams, B., 23 Court St., Boston.	Aiken, W. M., St. James Building, Broadway, New York City.
*Adams, Henry.	*Alden, Henry M., care of Harper & Brothers, New York.
*Adams, Herbert, LL.D., Johns Hop- kins University, Baltimore, Md.	Alderson, Victor C., M.D., Armour Inst. of Tech., Chicago.
Adams, John L., 24 E. 46th St., New York.	Aldrich, Charles F., Home Insurance Building, Chicago.
Adams, Oscar Fay, 41 Marlboro St., Boston.	

Aldrich, Nelson W., Providence, R.I.
 *Aldrich, Thomas Bailey, Boston, Mass.
 Aldridge, George W., Rochester, N.Y.
 Alexander, E. P., Augusta, Ga.
 *Alexander, John W., 120 Broadway, New York City.
 Allen, Charles Dexter, Hartford, Conn.
 *Allen, James Lane, 66 5th Ave., New York.
 Allen, S. H., 501 Jackson St., Topeka, Kan.
 Allen, Thomas, 12 Commercial Ave., Boston.
 Allen, Timothy Field, M.D., 3 E. 48th St., New York.
 Allen, William A., Madison, Neb.
 Allison, Hon. W. B., 1124 N. St., Washington, D.C.
 Allsheier, Joseph A., 320 Manhattan Ave., New York.
 Alvord, Henry E., Lewinsville, Fairfax County, Va.
 Ames, Gen. Adelbert, Lowell, Mass.
 Ames, James Barr, Cambridge, Mass.
 Amory, Robert, M.D., 279 Beacon St., Boston.
 Anderson, E. Ellery, 27 William St., New York.
 Anderson, Rev. Joseph, D.D., Waterbury, Conn.
 Anderson, Warren E., Pensacola, Fla.
 Anderson, Winslow, M.D., 1220 Sutton St., San Francisco.
 Andrews, Charles, Syracuse, N.Y.
 Andrews, Hon. Charles B., LL.D., Litchfield, Conn.
 Andrews, Charles M., Bryn Mawr, Pa.
 Angell, Henry C., 16 Beacon St., Boston, Mass.
 Anthony, Prof. Wm. A., Cooper Union, New York.
 Appleton, Edmund D., 215 W. 79th St., New York.
 Archer, Frederick, Carnegie Institute, Pittsburg, Pa.
 Ashley, Prof. Clarence D., LL.D., N.Y. Un. Law School, New York.
 Ashley, George Hall, 15 W. 22d St., Indianapolis, Ind.
 Ashmead, William H., 1821 Q St., N.W., Washington, D.C.
 Ashmore, George C., M.D., 794 Republic St., Cleveland, Ohio.
 Atherton, Miss Gertrude, "The Cairo," Washington, D.C.
 Atwood, Charles E., M.D., "Bloomington," White Plains, N.Y.
 Atwood, J. M., 159 Meigs St., Rochester, N.Y.
 Audsley, G. A., Bowling Green Office, New York.
 Austen, Peter T., 218 St. Johns Pl., Brooklyn.
 Avery, A. C., Morganton, N.C.
 Avery, Edward H., Auburn, N.Y.
 Ayer, Benjamin F., 99 Pine St., Chicago.
 Ayers, Howard, University of Cincinnati, Cincinnati, Ohio.
 Bacon, Edwin M., 6 Beacon St., Boston.
 Bacon, Henry, 12 bis Rue Vineuse, Paris, France.
 Bacon, Robert, 33 Wall St., New York City.
 Bailhache, Preston H., 2115 St., N.W., Washington, D.C.
 Baker, David S., Wickford, R.I.
 Baker, Prof. George S., 190 Brattle St., Cambridge.
 Baker, Henry B., M.D., Lansing, Mich.
 Baker, Hon. John H., Indianapolis, Ind.
 Bakewell, Prof. Charles Montague, Bryn Mawr, Pa.
 Baldwin, Prof. J. Mark, Princeton, N.J.
 *Baldwin, Hon. S. E., LL.D., New Haven, Conn.
 Baldwin, William H., Jr., 32 Nassau St., New York City.
 Ball, Thomas, 29 S. Mountain Ave., Montclair, N.J.
 Band, A., Washington, D.C.
 Bangs, John Kendrick, Yonkers, N.Y.
 Barber, Walter L., M.D., Waterbury, Conn.
 Barclay, Shepard, 705 Olive St., St. Louis, Mo.
 Barnard, Charles, 201 W. 101st St., New York.
 Barr, Mrs. Amelia E., 5th Ave. Hotel, New York.
 Barrows, Charles Clifford, M.D., 8 W. 36th St., New York.
 Bartholomew, Hon. J. M., Bismarck, N.D.
 Bartlett, Franklin, 41 Park Row, New York.
 Bartlett, John, 165 Brattle St., Cambridge.
 Bates, Miss Katharine Lee, Wellesley College, Wellesley, Mass.
 Baylor, Mrs. Frances C., 313 Hall St., West Savannah, Ga.

Beach, Mrs. H. H. A., 28 Commonwealth Ave., Boston.

Beach, H. H. A., M.D., 28 Commonwealth Ave., Boston.

Beale, C. W., Arden, Buncombe County, N.C.

Beard, Daniel C., 204 Amity St., Flushing, L.I.

Beates, Henry, Jr., M.D., 1504 Walnut St., Philadelphia.

Beaver, Hon. James A., Bellefonte, Pa.

*Beckwith, J. Carroll, 58 W. 57th St., New York City.

Belmont, August, 32 Nassau St., New York City.

Bell, Clark, M.D., 39 Broadway, New York.

Bemar, S. S., Pullman Building, Chicago.

Benedict, E. C., Greenwich, Conn.

Benedict, Frank Lee, 1514 H St., N.W., Washington, D.C.

Benedict, George Grenville, Burlington, Vt.

*Benson, Frank W., Salem, N.H.

Bentley, Edwin, M.D., 617 Main St., Little Rock, Ark.

Bergen, Van Brunt, Shore Road and 77th St., Brooklyn.

Bergen, Victor L., 1229 Second St., Milwaukee, Wis.

Bernays, August C., M.D., 3623 Laclede Ave., St. Louis.

Betts, B. Frank, M.D., 1609 Girard Ave., Philadelphia.

*Bierstadt, A., 322 F Ave., N.Y.

*Bigelow, Hon. John, 1818 N St., Washington, D.C.

Bill, Ledyard, Paxton, Mass.

Bingham, E. F., 1907 H St., N.W., Washington, D.C.

Bishop, J. Remsen, 117 Huntington Pl., Mt. Vernon, Cincinnati, Ohio.

Biskop, D. S. S., 1719 W. Adams St., Chicago.

Bispham, David S., Players' Club, New York.

*Bird, Arthur, Berlin, Germany.

Bissinger, Philip, 22 John St., New York.

Bjorksten, Meodore, 95 Carnegie Hall, New York City.

Blaikie, William, 206 Broadway, New York.

Blair, James L., Union Trust Building, St. Louis, Mo.

Blake, Clarence John, M.D., 226 Marlboro St., Boston.

*Blashfield, Edwin H., 48 W. 59th St., New York.

Blatchford, Hon. E. W., 375 La Salle Ave., Chicago.

Blenner, Carle J., 58 W. 57th St., New York.

Blount, Henry F., The Oakes, Washington, D.C.

*Blum, Robert F., 90 Grove St., New York.

Blumberg, Marc A., Broadway and 70th St., The Ormonde, New York.

Blumer, G. Alder, M.D., Butler Hospital, Providence, R.I.

Boardman, D. L., Troy, N.Y.

Boies, Col. H. M., Scranton, Pa.

Bonaparte, Hon. Charles J., Baltimore, Md.

Bonney, Charles C., 511 Tacoma Building, Chicago.

Bookman, D. S., 1 Madison Sq., New York.

Borland, Wilfred P., Burley, Wash.

Boutelle, Hon. C. A., 157 Broadway, Bangor, Me.

Bowker, R. R., 274 Lafayette Ave., Brooklyn.

Bowles, Samuel, Springfield, Mass.

Boyd, David R., Norman, Okla.

Boynton, F. D., 114 So. Geneva St., Ithaca, N.Y.

Bracken, H. M., M.D., 1010 4th St., South, Minneapolis.

Bradley, A. C., 2013 Q St., N.W., Washington, D.C.

Braislin, Miss Alice G., Bordentown, N.J.

Braman, James C., 50 State St., Boston.

Bramer, J. C., Auburndale, Mass.

Branner, J. C., Stanford University, Cal.

Brantley, W. G., Brunswick, Ga.

Breaux, Hon. Joa. A., 1728 Canal St., New Orleans.

Breed, William J., 1213 W. 8th St., Cincinnati.

Breese, James L., 5 W. 16th St., New York.

Brett, George P., 66 5th Ave., New York.

Brevort, James R., 390 N. Broadway, Yonkers, N.Y.

Brewer, Hon. David J., LL.D., Supreme Court U. S., Washington, D.C.

Brewer, George E., M.D., 68 W. 46th St., New York.

Brewster, Hon. Lyman D., Danbury, Conn.

Brewster, Wm., 145 Brattle St., Cambridge, Mass.

Brickell, Robert C., 634 Franklin St., Huntsville, Ala.

Brickell, W. D., *Daily Despatch*, Columbus, Ohio.

Bridges, Robert, 153 5th Ave., New York.

Brinkerhoff, Roeliff, Mansfield, Ohio.

Bristol, J. J. D., 1 Madison Ave., New York.

Broadhead, G. C., Columbia, Mo.

Brockway, Z. R., Elmira, N.Y.

Bronson, J. H., Waterbury, Conn.

Brooks, Edward, 5971 Drexel Road, Philadelphia.

Brooks, Elbridge S., 530 Atlantic Ave., Boston.

Brooks, Noah, Castine, Me.

Brown, Amos P., Stenton Ave., Germantown, Pa.

Brown, Mrs. Corinne S., 6230 Woodland Ave., Chicago.

Brown, Glenn, 918 F St., Washington, D.C.

Brown, J. Stanford, 1 Broadway, New York City.

Brown, John Howard, 378 Boylston St., Boston.

Brown, Julius L., Atlanta, Ga.

Brown, W. L., 42 W. 72d St., New York.

Browne, Dr. Lucy Hall, 158 Montague St., Brooklyn.

*Brownell, W. C., 153 5th Ave., New York.

Bruce, A. C., Atlanta, Ga.

Brush, Edward N., M.D., Sheppard & Enoch Pratt Hosp., Baltimore.

*Brush, George De Forest, 50 E. 81st St., New York City.

Bryan, Charles S., 3 Broad St., New York.

Bryant, W. M., Webster Grove, St. Louis.

Buchanan, John L., Fayetteville, Ark.

Buchanan, Joseph R., San José, Cal.

Buchanan, Joseph R., 45 Park Pl., New York.

*Buck, Dudley, 34 Sidney Pl., Brooklyn, New York.

Buel, Clarence Clough, 33 E. 17th St., New York.

Buel, J. W., 3941 Market St., Philadelphia.

Bullock, Charles J., Williamstown, Mass.

*Bunce, Wm. Gedney, 21 Woodland St., Hartford, Conn.

Burbank, Luther, Santa Rosa, Cal.

Burdette, Robert G., 891 Orange Grove Ave., Pasadena, Cal.

Burdick, E. C., 29 Broad St., New York City.

Burleigh, C. B., Augusta, Me.

Burleigh, Geo. Shepard, 69 College St., Providence, R.I.

Burnam, A. R., Frankfort, Ky.

Burnett, Mrs. Frances Hodgson, Maythan Hall, Rolvenden, Kent, England.

Burnett, Swan M., M.D., 916 Farragut St., Washington, D.C.

Burnham, Miss Clara Louise, care Messrs. Houghton, Mifflin & Co., Boston, Mass.

*Burroughs, John, West Park, N.Y.

Burton, Frederick R., Yonkers, N.Y.

Burton, James, 487 W. 22d St., New York.

Busey, Samuel C., M.D., 901 16th St., N.W., Washington, D.C.

Butler, Miss Mary M., 263 Palisade Ave., Yonkers, N.Y.

Butler, Prof. Nathaniel, Colby College, Waterville, Me.

Butler, Prof. Nicholas Murray, 119 E. 30th St., New York.

Byford, Henry T., 100 State St., Boston.

Bynum, William P., Jr., Greensboro, N.C.

*Cable, George W., L.H.D., Northampton, Mass.

Cabot, Edmund C., Brookline, Mass.

Cadwalader, John, 263 S. 4th St., Philadelphia.

Cadwalader, John L., 13 E. 35th St., New York.

Caldwell, Hon. Waller C., Trenton, N.J.

Callaway, S. R., Grand Central Station, New York.

Cameron, Hon. John D., Harrisburg, Pa.

Camp, W. H., Waterbury, Conn.

Camp, Walter, New Haven, Conn.

Campbell, John T., Rockville, Ind.

Campbell, R. D., Grand Forks, N.D.

Canfield, James H., Columbia University, New York.

*Carman, Bliss, 640 5th Ave., New York City.

Carter, Hon. James C., 54 Wall St., New York.

Carter, Robert I., *Times Star*, Cincinnati, Ohio.

Cary, George L., Meadville, Pa.

Case, Theodore S., M.D., 900 W. 15th St., Kansas City, Mo.

Cawein, Madison J., 1828 W. Market St., Louisville, Ky.

*Chadwick, George W., Boston, Mass.
 Chamberlain, Hon. D. H., 40 Wall St., New York.
 Chamberlain, Hon. Joshua L., Brunswick, Me.
 Chambers, P. H., M.D., 24 E. 54th St., New York.
 Chambers, Robert W., Broadalbin, Fulton County, N.Y.
 Chambers, R. C., Salt Lake City, Utah.
 Champney, Benjamin, 40 Pleasant St., Woburn, Mass.
 Champney, J. Wells, 96 5th Ave., N.Y.
 Chancellor, C. W., M.D., Baltimore, Md.
 Chapple, J. M., 33 Kent Sq., Baltimore, Md.
 Charity Organization Society, 510 E. 22d St., New York.
 Chase, George, 35 Nassau St., New York.
 *Chase, William M., 303 5th Ave., New York.
 Chickering, J. W., The Pottner, Washington, D.C.
 Choate, William G., 40 Wall St., New York.
 Chopin, Miss Kate, 3317 Morgen St., St. Louis, Mo.
 Christy, Howard C., 76 W. 85th St., New York.
 Church, Frederick E., Hudson, N.Y.
 Churchill, Winston, St. Louis, Mo.
 Clark, Edward, 417 4th St., N.W., Washington, D.C.
 Clark, James Gardner, M.D., 646 Washington St., Boston, Mass.
 Clarke, John M., Albany, N.Y.
 Clarke, Thomas B., 5 E. 34th St., New York.
 *Clemens, Samuel L., Hartford, Conn.
 Clinton, Charles W., 23 E. 19th St., New York City.
 Clowes, George H., Waterbury, Conn.
 Cobb, Henry Iverson, Washington, D.C.
 Cochran, W. Bourke, 31 Nassau St., New York.
 Cockerell, Theodore D. A., Mesilla Park, New Mexico.
 Coit, J. M., St. Paul's School, Concord, N.H.
 Cole, Hon. Charles C., 1705 N St., N.W., Washington D.C.
 Cole, Samuel W., 9 Holyoke St., Boston, Mass.
 Cole, Stockton Beekman, 287 4th Ave., New York.
 Coleman, Samuel, 59 W. 45th St., New York.
 Coleman, Thomas D., M.D., 505 Greene St., Augusta, Ga.
 Coles, Rev. A. W., D.D., 316 Washington Ave., Elmira, N.Y.
 *Collins, Alfred Quinton, Carnegie Hall, New York City.
 Collins, Joseph, M.D., 47 W. 38th St., New York City.
 Collins, Michael F., 270 River St., Troy, N.Y.
 Collins, Hon. Patrick A., Boston, Mass.
 Compter, W. G., Columbus, Ohio.
 Conner, P. S., M.D., 215 W. 9th St., Cincinnati, Ohio.
 Connolly, M. W., Memphis, Tenn.
 Connor, Leartus, M.D., 103 Carr St., Detroit, Mich.
 *Conway, Moncure D., Care E. Conway, 29 Broadway, New York.
 Cooke, George Willis, East Lexington, Mass.
 Coolidge, Hon. T. Jefferson, 64 Ames Building, Boston, Mass.
 Cooper, Ellwood, Santa Barbara, Cal.
 Corcoran, John W., M.D., Tremont Building, Boston, Mass.
 Corliss, Guy C. H., Grand Forks, N.D.
 Cornwallis, Kinahan, 16 E. 22d St., New York.
 Corson, E. R., M.D., 11 Jone St., East, Savannah, Ga.
 Corson, Hiram, Cornell University, Ithaca, N.Y.
 Cortell, E. L., 27 Pine St., New York.
 Costa, Paul F., Security Building, St. Louis, Mo.
 Coues, Elliott, 1726 N St., Washington, D.C.
 Courtney, Walter, M.D., Brainerd, Minn.
 Cowan, Dr. Frank, Greensburg, Pa.
 Cowdin, John E., 121 Spring St., New York.
 *Cox, Kenyon, 75 W. 55th St., New York.
 Coy, Edward G., Lakeville, Conn.
 Crack, S. G., Macon, Mo.
 Craig, William Bayard, Des Moines, Ia., Drake University.
 Craigie, Mrs. Paul M. T., 56 Lancaster Gate, London, England.
 Crampton, C. A., Int. Rev. Treas. Dept., Washington, D.C.

Crandall, Charles H., New Canaan, Conn.
 Crane, William H., Cohasset, Mass.
 Cranmer, G. L., Wheeling, W. Va.
 *Crawford, F. Marion, 66 5th Ave., New York.
 Crawford, L. J., Newport, Ky.
 Crawshall, W. H., Hamilton, N.Y.
 Crunden, Frederick M., Public Library, St. Louis, Mo.
 Culbertson, J. C., M.D., 317 W. 7th St., Cincinnati, Ohio.
 Curtin, Jeremiah, Bristol, Vt.
 Curtin, Dr. Roland G., 22 S. 18th St., Philadelphia.
 Curtis, Charles E., New Haven, Conn.
 Curtis, George W., New Haven, Conn.
 Curtis, H. Holbrook, M.D., 118 Madison Ave., New York.
 Curtis, Prof. Mattoon M., 43 Adelbert Ave., Cleveland, Ohio.
 Curtis, William E., 30 Broad St., New York.
 Curtis, William Eleroy, 1801 Connecticut Ave., Washington, D.C.
 Cutcheon, F. W. M., 40 Wall St., New York City.
 Cutting, Fulton R., 24 E. 67th St., New York.
 *Damrosch, Walter, Hotel Cambridge, 33d St. & 5th Ave., New York City.
 Dana, Charles L., M.D., 50 W. 46th St., New York City.
 Danforth, I. N., M.D., 70 State St., Chicago, Ill.
 *Dannat, William T., 45 Avenue Villiers, Paris, France.
 Davies, Julien T., 32 Nassau St., New York.
 Davis, Dr. Booth Colwell, Alfred, N.Y.
 Davis, H. E., Elkins, W. Va.
 Davis, Hon. John, Court of Claims, Washington, D.C.
 Davis, Richard Harding, 34 W. 30th Street, New York.
 Day, Frank L., M.D., 240 Benefit St., Providence, R.I.
 Day, Richard E., University of State of New York, Albany.
 Dayton, Charles W., 27 William St., New York.
 Dean, John Ward, 18 Somerset St., Boston, Mass.
 De Blois, Austen K., Elgin, Ill.
 Deemer, Hon. H. E., Red Oak, Ia.
 De Garmo, William Burton, 56 W. 36th St., New York.
 *De Koven, Reginald, 83 Irving Pl., New York.
 Del Mar, Alexander, 62 Reade St., New York.
 Dennis, Charles H., 1893 Roscoe St., Chicago, Ill.
 Dering, Prof. D. W., New York University, New York.
 Dewell, Hon. James D., New Haven, Conn.
 De Wolf, J. Halsey, 20 Market Sq., Providence, R.I.
 Dexter, Hon. Seymour, Elmira, N.Y.
 Dimock, H. F., Pier No. 11, North River, N.Y.
 Doughty, William Howard, Troy, N.Y.
 Douglas, Rev. George W., D.D., Tuxedo Park, N.Y.
 Dowd, C. F., Saratoga Springs, N.Y.
 Drew, John, Racquet Club, New York.
 Dunning, Rev. A. E., D.D., 1 Somerset St., Boston, Mass.
 *Duveneck, Frank, Boston, Mass.
 Earle, Mrs. Alice Morse, 242 Henry St., Brooklyn, N.Y.
 Eaton, Hon. John, Washington, D.C.
 Edmunds, A. Lawrence, P.O. Box 1425, Boston, Mass.
 Egan, Maurice Francis, 212 N. Capital St., Washington, D.C.
 *Eggleslon, Edward, Joshua's Rock, Lake George, N.Y.
 Eidlitz, Cyrus L. W., Townsend Building, New York City.
 Ellery, Chauncey, St. James Building, Broadway and 26th St., New York.
 Eliot, Pres. Charles W., LL.D., 17 Quincy St., Cambridge, Mass.
 Elmer, William, M.D., Trenton, N.J.
 Elverson, James, 2024 Walnut St., Philadelphia.
 Emerson, Charles Wesley, Boston, Mass.
 Engelman, George J., 208 Beacon St., Boston, Mass.
 Estel, Morris M., San Francisco, Cal.
 Evans, James, M.D., Florence, S.C.
 Everard, Mrs. James, 697 5th Ave., New York.
 Eyre, Wilson, Jr., 929 Chestnut St., Philadelphia, Pa.
 Fairchild, Hon. Charles S., 10 W. 8th St., New York.
 Fairchild, George T., Berea, Ky.
 Farnam, Prof. Henry W., New Haven, Conn.
 *Fawcett, Edgar, 104 Gt. Portland St., London, England.

Fels, Maurice, 1312 Franklin St., Philadelphia.

Ferguson, Prof. Henry, 123 Vernon St., Hartford, Conn.

Fernald, M. C., Orono, Me.

Fernow, B., Army and Navy Club, New York.

Field, Caroline Leslie, 657 Boylston St., Boston, Mass.

Finerty, John F., 3562 Grand Boulevard, Chicago.

Finley, John H., Galesburg, Ill.

Fish, Nicholas, 120 Broadway, New York.

Fiske, Harrison Grey, 1432 Broadway, New York.

Fiske, Stephen, 64 5th Ave., New York.

*Fiske, Willard, Florence, Italy.

Fitch, Thomas D., M.D., 113 Warren Ave., Chicago.

Flanders, Henry, 419 Walnut St., Philadelphia.

Fleming, Miss Willimina P., Harvard College Observatory, Cambridge, Mass.

Folwell, Wm. W., 1020 5th St., S.E., Minneapolis, Minn.

*Ford, Paul Leicester, 247 5th Ave., New York.

Forman, Allan, 20 Liberty St., New York.

Formento, Felix, M.D., 735 Esplanade Ave., New Orleans, La.

*Foote, Arthur, Dedham, Mass.

Foote, Mrs. Mary Hallock, care of North Star Mines, Grass Valley, Cal.

Foulke, W. D., Richmond, Ind.

Fowler, Hon. Charles M., 720 North Broad St., Elizabeth, N.J.

Fowler, Prof. Harold N., 49 Cornell St., Cleveland, Ohio.

*Fox, John, Jr., Big Stone Gap, Va.

Frankland, F. W., 346 Broadway, New York.

Freer, Charles L., Detroit, Mich.

*French, Daniel C., 125 W. 11th St., New York.

*Fuller, Henry B., Chicago, Ill.

Gage, Hon. Lyman J., 1715 Mass. Ave., Washington, D.C.

Gaines, R. R., Austin, Texas.

Gallaudet, Edward M., LL.D., Gallaudet College, Washington, D.C.

Gally, M., 130 Fulton St., New York.

Gant, James B., Jefferson City, Mo.

Gardiner, Charles A., 32 Nassau St., New York.

*Garland, Hamlin, care *McClure's Magazine*, New York City.

Garrett, John B., 26 Cortlandt St., New York.

Gates, Lewis E., Cambridge, Mass.

Gates, Pres. Merrill E., LL.D., Amherst College, Amherst, Mass.

Gatling, Richard J., 834 West End Ave., New York.

Gay, Dr. George W., 665 Boylston St., Boston, Mass.

*Gay, Walter, 73 Rue Ampère, Paris.

Gayley, Charles Mills, University of California, Berkeley, Cal.

Gelatt, Roland B., 417 W. Market St., Louisville, Ky.

Gerhard, William P., 36 Union Square, New York.

Gerhardt, Karl, Box 23, Station A, Hartford, Conn.

Gericke, Wilhelm, Upland Road, Brookline, Mass.

*Gibson, C. D., Players' Club, New York City.

Gifford, R. Swain, 152 W. 57th St., New York.

Gilbert, Cass, 704 Constable Building, 4th Ave., New York.

*Gilchrist, W. W., 107 15th St., Philadelphia, Pa.

*Gilder, Richard Watson, 33 E. 17th St., New York.

Giles, William A., 64 Borden Block, Chicago, Ill.

*Gillette, William, Plaza Hotel, New York.

Gilman, Arthur, 36 Concord Ave., Cambridge, Mass.

*Gilman, Pres. D. C., LL.D., Baltimore, Md.

Gilman, Theodore, 62 Cedar St., New York.

Gladden, Rev. Washington, D.D., Columbus, Ohio.

Goddard, Morrill, *New York Journal*, New York City.

*Godkin, E. L., New York City.

*Godwin, Parke, 19 E. 37th St., New York City.

Gordon, Armstead C., Staunton, Va.

*Gordon, Rev. G. A., D.D., Boston, Mass.

Goss, E. O., Waterbury, Conn.

*Grant, Robert, 205 Bay State Road, Boston.

Greene, Col. Jacob L., Hartford, Conn.

Greene, J. Warren, 3 Broad St., New York.

*Gregory, Eliot, 6122 Broadway, New York City.

Grew, Henry S., 89 Beacon St., Boston, Mass.

Griffin, Percy, 48 Exchange Pl., New York.
 *Griffis, Rev. William Elliott, D.D., Ithaca, N.Y.
 Guild, Curtis, Jr., Box 1596, Boston.
 Guthrie, W. D., 40 Wall St., New York.
 Habberton, John, New Rochelle, N.Y.
 *Hadley, Pres. Arthur T., LL.D., New Haven, Conn.
 Hainer, Bayard F., Perry, Okla.
 Haines, H. S., 66 Pine St., New York.
 Hale, Philip, St. Botolph Club, Boston.
 Halford, R. J., 1622 22d St., N.W., Washington, D.C.
 Hall, Asaph, 12 Kirkland Pl., Cambridge, Mass.
 Hall, C. H., Salem, Ore.
 Hallett, Hon. Moses B., Denver, Col.
 Hallock, Charles, P.O. Box 2832, New York.
 Halstead, Murat, 643 W. 4th St., Cincinnati, Ohio.
 Hamilton, T. F., Saratoga Springs, N.Y.
 Hamlin, C. S., Ames Building, Boston.
 Hammond, Hon. N. J., Atlanta, Ga.
 Hanford, C. H., Seattle, Wash.
 *Hardy, Arthur Sherburne, Cr. of E. E. Hardy, Tremont Building, Boston.
 *Harland, Henry, 144 Cromwell Road, London, England.
 Harney, George E., 113 E. 36th St., New York City.
 Harney, Will Wallace, Orland P.O., Drawer No. 148, Orland City, Fla.
 Harper, Prof. William R., University of Chicago, Chicago, Ill.
 Harris, Prof. W. T., LL.D., Washington, D.C.
 *Harrison, Alexander, 17 Rue Campagne Première, Paris, France.
 Harrison, Mrs. Burton, 43 E. 29th St., New York.
 Harrison, Hon. Carter H., 295 Schiller St., Chicago, Ill.
 Harrison, Hon. Lynde, New Haven, Conn.
 Harrison, Ralph C., 919 Pine St., San Francisco, Cal.
 Hart, Charles H., 1819 Chestnut St., Philadelphia.
 *Harte, Bret, 74 Lancaster Gate, London, England.
 Harter, George A., Delaware College, Newark, Del.
 Hartwell, H. W., 147 Summer St., Waltham, Mass.
 Harvey, Alexander, 267 5th Ave., New York City.
 Harvey, George F., Saratoga Springs, N.Y.
 *Hassam, Childe, 152 W. 57th St., New York.
 Hastings, Frank Seymour, 29 Broad St., New York City.
 Hastings, Thomas, 28 E. 41st Street, New York.
 Hawes, Miss Susan M., 98 Park Ave., Yonkers, N.Y.
 Hawthorne, Julian, 216 W. 138th St., New York.
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 Henry, Rev. Francis A., 1308 16th St., Washington, D.C.
 *Herne, James A., 79 Convent Ave., New York.
 Higginson, Col. T. W., LL.D., Cambridge, Mass.
 Hill, Alfred R., M.D., 669 5th Ave., New York.
 Hill, J. Stanhope, 21 Buckingham St., Cambridge, Mass.
 Hitchcock, Hon. Henry, LL.D., 709 Wainwright Building, St. Louis, Mo.
 Hoadley, Hon. George, 22 William St., New York.
 Holland, Rev. Robert A., 2918 Pine St., St. Louis, Mo.
 Holt, Henry, 29 W. 23d St., New York.
 *Howard, Bronson, 201 W. 78th St., New York.
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 Howland, Richard S., *Journal* Office, Providence, R.I.
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Jacques, David R., 120 Broadway, New York.

James, Prof. E. J., University of Chicago, Ill.

*James, Henry, Lambs House, Rye, England.

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*Jefferson, Joseph, LL.D., Players' Club, New York City.

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Lang, B. J., 8 Brimmer St., Boston, Mass.

*Lathrop, Francis, 29 Washington Sq., New York.

Le Brun, Napoleon, 1 Madison Ave., New York City,

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Lea, Henry Charles, 2000 Walnut St., Philadelphia.

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*Kuckstuhl, F. W., 939 8th Ave., New York.

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Russell, Judge Horace, 280 Broadway, New York.

Russell, Prof. Isaac F., D.C.L., 120 Broadway, New York.

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Rutan, Charles H., 111 Davis Ave., Brookline, Mass.

Sackett, Henry W., *Tribune* Building, New York.

*St. Gaudens, Augustus, 3 bis Rue de Bagneux, Paris.

Saltus, Edgar, 109 E. 18th St., New York.

Sanders, D. J., Biddle University, Charlotte, N.C.

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Schlesinger, B., 131 Devonshire St., Boston.

*Schurz, Hon. Carl, LL.D., 16 E. 64th St., New York City.

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Scribner, Frank K., 26 E. 21st St., New York.

*Scudder, Horace E., LL.D., 17 Buckingham St., Cambridge, Mass.

Sears, Lorenzo, 163 Butler Ave., Providence.

Sedgwick, A. G., 115 Broadway, New York.

Selden, Edward D., Saratoga Springs, N.Y.

Seymour, John S., 27 Pine St., New York.

Seymour, John S., 40 Wall St., New York.

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GENERAL MEETING OF 1899.

The General Meeting of the Association for 1899 was held at Saratoga Springs, N.Y., from Monday evening, September 4, to Friday noon, September 8. All business transacted will be found recorded under the head of "*Business of 1899*."

The Departments held sessions as follows:—

MONDAY, SEPTEMBER 4.

General Session.

8.00 P.M. Annual Address by the President, Hon. SIMEON E. BALDWIN, LL.D., of New Haven, Conn., on "*The Natural Right to a Natural Death.*" [Action on vote proposed by the Council, accepting the Charter procured for the Association from Congress.]

9.00 P.M. Annual Report of the General Secretary, FREDERICK STANLEY ROOT, M.A., of New York.

Appointment of Nominating Committee.

Miscellaneous Business.

TUESDAY, SEPTEMBER 5.

Department of Education and Art.

9.30 A.M. Remarks by the Chairman, Rev. JOSEPH ANDERSON, D.D., of Waterbury, Conn.

10.00 A.M. Paper by ARTHUR REED KIMBALL, of the *Waterbury American*, on "*Education by Newspaper.*"

10.40 A.M. Paper by ARTHUR B. WOODFORD, Ph.D., of New Haven, Conn., on "*Twentieth-century Education.*"

11.15 A.M. Paper by WILLIAM H. BALDWIN, Jr., President of the Long Island Railroad, on "*The Present Problem of Negro Education.*"

DISCUSSION.

WEDNESDAY, SEPTEMBER 6.

Departments of Social Economy and Finance.

9.00 A.M. Opening Address by the Chairman of the Social Economy Section, F. B. SANBORN, of Concord, Mass., on "*Social Relations in the United States.*"

9.45 A.M. A Report by the Secretary of the Department, Prof. W. F. WILLCOX, Ph.D., of Cornell University, on "*The Social Relations of the Two Chief Races in the Southern States.*"

10.30 A.M. A Paper on "*Expansion as an Historical Evolution,*" by SAMUEL PARRISH, Esq., of Southampton, N.Y.

11.00 A.M. A Paper by Mrs. FLORENCE KELLEY, of Chicago, on "*The Aims and Principles of the Consumers' League.*"

12.00 M. A Paper on "*The Present Needs of Prison Management in America,*" debated by Z. R. BROCKWAY, of the Elmira Reformatory, F. B. SANBORN, and others.

8.00 P.M. Finance Section, Prof. J. W. JENKS, Ph.D., Chairman. Introductory remarks by F. B. SANBORN, Chairman of the Department of Social Economy.

8.30 P.M. Address from ALLEYNE IRELAND, Esq., on "*The Financial Administration of Colonial Dependencies.*"

9.00 P.M. Discussion of the above topic opened by Brigadier-general GUY V. HENRY, late Military Governor of Porto Rico.

THURSDAY, SEPTEMBER 7.

Department of Jurisprudence.

9.30 A.M. Opening address by Prof. ISAAC FRANKLIN RUSSELL, D.C.L., of the New York University Law School, Secretary of the Department, on "*Why Law Schools are crowded.*"

10.00 A.M. Paper by HENRY WADE ROGERS, LL.D., President of North-western University, on "*The Acquisition and Government of Territory.*"

11.00 A.M. Paper by Hon. JOHN WOODWARD, Justice of the Supreme Court of New York, on "*The Tendency of Courts to sustain Special Legislation.*"

Discussion of preceding papers.

8.00 P.M. Paper by FRANCIS B. THURBER, Esq., of the New York Bar, on "*The Right to combine.*"

9.00 P.M. Paper by Prof. CLARENCE D. ASHLEY, LL.D., of the New York University Law School, on "*The Training of the Lawyer.*"

FRIDAY, SEPTEMBER 8.

Department of Health.

Chairman of Department, W. H. DALY, M.D., of Pittsburg, Pa.

9.30 A.M. General Session.

- (a) Report of Nominating Committee.
- (b) Annual Election of Officers.
- (c) Miscellaneous Business.

10.00 A.M. *Brief Mention of a Few Ethnic Features of Nervous Diseases.* IRVING C. ROSSE, M.D., Washington, D.C.

10.30 A.M. *A Plan for the Suppression of Yellow Fever.* By WALTER C. WYMAN, M.D., Surgeon-general U.S. Marine Hospital Service.

11.00 A.M. *The Increase of Insanity and its Interpretation.* By W. J. HERDMAN, M.D., Ann Arbor, Mich.

11.30 A.M. *Compulsory Inoculation.* By ELMER LEE, M.D., of New York, the Secretary of the Department,



THE NATURAL RIGHT TO A NATURAL DEATH.

BY THE HON. SIMEON E. BALDWIN, LL.D., OF NEW HAVEN, CONN.,
PRESIDENT OF THE ASSOCIATION.

[Read Monday evening, September 4.]

There is a long struggle in which each of us, half consciously and half unconsciously, is engaged. We share it with the universe. It is one between the activity of productive energy, that is ever consuming what produces it, and the activity of reparation. We call it life.

Herbert Spencer has attempted to define it for us in scientific terms. It is, he says, the co-ordination (or definite combination) of actions.* This co-ordination is a continuous process, "the continuous adjustment of internal relations to external relations," or, as he puts it in less measured but perhaps more intelligible phrase, life is constituted by "the continuous maintenance of such inner actions as will counterbalance outer actions."†

All action expends itself. The active being which is continually adjusting what is within it to what is outside of it will some day be unequal to the longer maintenance of the unequal struggle, — unequal because it is the struggle of one against the universe. The correspondence between internal and external relations may become imperfect, and this is debility or disease. It may cease, and this is death.

The natural tendency of all the forces with which we are acquainted is toward a state of repose. The law of energy is to proceed to a full stop. This may come through wakening into activity some equal power; but that, too, will ultimately spend its forces in their use, or lose them by communication, in some endless chain, in which each link circles back upon itself and is at rest.

In the forces of the human body there is always decline and decay. It is from hour to hour losing its heat, its elasticity, its spring.

* *Principles of Biology*, i. 60, 61, 74.

† *Ibid.*, 80, 74, note.

Life is a resistance to these processes of dissolution. The moment surely comes when the resistance is overcome forever. Decay then goes on without reparation. There is no return of bodily warmth, the stiffened limbs are not again relaxed. The man passes out of our sight, and leaves a corpse behind.

Death by disease is an abnormal occurrence. It is always the result of something unusual, such as congenital weakness or malformation, exposure to contagion, an act of personal imprudence or of violence at the hand of others.

The only natural death is that brought by old age, when what we take into our body to repair its waste can no longer serve that function. The correspondence between eating and assimilation, breathing and oxidation, becomes inexact.* We receive, at first, more than we can give; next, less than we need; and then comes the equilibrium, toward which all our life has been tending. The organism has no answering process to meet the action of the outward world, and that state of rest is reached with which life ends.

A great English scholar † declared last year before the Sanitary Institute of England that nineteen out of twenty Englishmen died an unnatural death. They died from causes that might have been, and ought to have been, prevented or remedied. A due attention, he said, to the laws of hygiene and sanitary science would add fifteen years to the average life of man.

But there is another form of unnatural death, which we approach in the opposite direction. It is living too long. It is the work of science, the achievement of the highest medical art.

One of Lord Bacon's maxims is that "mori est felicis antequam mortem invocet."

And so comes death to most of us, in the order of nature. It comes before we are weary of life. It comes unbidden. How far may it have an equal right, if it appears at the fit season, to come unopposed?

In that strange book of materialistic and Epicurean philosophy which has found its way into the Bible,—Ecclesiastes,—the Preacher tells us, in one of those sententious phrases by whose solemn wording he knew how to make a truism seem new, that to everything there is a season, a time to be born and a time to die.‡ It is in death that man seems most nearly to approach his fellow-

* Spencer's Principles of Biology, i. 88.

† Dr. Hill, master of Downing College in Cambridge University.

‡ Ecclesiastes iii. 1, 2.

creatures on this earth. It leads him indeed, we may believe, where they cannot follow; but the act and fact itself belongs to that physical constitution which he shares with them, and is the orderly conclusion of all forms of existence.

A natural process, common to all created beings, and through which each must pass, cannot, ordinarily and normally, be a painful one. It would not be in harmony with the order of the universe, did it involve any violent shock or disruption. The pear drops from the tree, when it is ripe, by its own weight. The vitality of the tree itself retreats, in its old age, from the branches to the trunk, from the trunk to the roots, and is finally extinguished at a moment of time which none can mark. So should pass away in ordinary course our human life.

The beasts of the forest prey upon each other, and may often meet, as they often inflict, a cruel death. The spirit of altruism, which has characterized and perhaps secured what Drummond (and, I believe, a young Scotch poetess before him) so happily called the Ascent of Man, prevents, under normal conditions, in the state of civilization, such a termination of our existence.

It goes farther, and seeks by active aid to prolong life when debility or disease is about to close its course. The purpose of this address is to ask whether such aid is not sometimes pressed too far.

There are certain maladies that attack the human frame which are necessarily fatal, and others which naturally end in a speedy death, but may be so treated as to lead to a protracted state of weakness and suffering, incompatible with any enjoyment of life or useful activity, and from which there can be no real hope of ultimate recovery.

In uncivilized nations such diseases are of short duration. They are either left to take their course without interference or the patient is expedited on his journey to the grave.

In civilized nations, and particularly of late years, it has become the pride of many in the medical profession to prolong such lives at any cost of discomfort or pain to the sufferer or of suspense and exhaustion to his family.

The patient has come to a point where he cannot bear the thought of eating. The throat declines to swallow what the stomach is no longer able to digest. He craves nothing but to be let alone. A few hours, and Nature will come to his release. She is already, perhaps, fast throwing him into that happy unconscious-

ness of pain which we call lethargy. It is no time-limited disease, with a stated course to run, after which, if the patient lives, health may return. The vital forces have been spent. The mainspring is broken, and the watch has run down. It can be made to tick feebly for a minute or two by shaking it hard enough; but *cui bono?* Only another mainspring can mend it. Only another soul, another world, can give value to this human life that is ready to flicker out because it is worn out.

The family ask the doctor if there is no hope, and he responds with some sharp stimulant, some hypodermic injection, some transfusion or infusion to fill out for a few hours the bloodless veins, some device for bringing oxygen into the congested lungs that cannot breathe the vital air, some cunning way of stimulating another organ to do the stomach's work, or it may be with strychnine to poison the fountains of life into spasmodic activity, as they struggle to reject it. The sufferer wakes to pain, and gasps back to a few more days or weeks of life.

Were they worth the having? Do they bring life or a parody of life? Has nature—that is, the divine order of things—been helped or thwarted? For the time thwarted, but not for long. The suffering, or at least the lethargic existence, has been successfully protracted; but the body will soon falter and fail in the unwonted functions forced upon parts of it made for other uses, and death come, to the relief of the dying and the living alike.

Nature had kindly smoothed the sufferer's pillow by leading the way to that gradual exhaustion of the vital powers which follows the refusal of the stomach to receive or to digest food.

To force nutriment into the system in such a case through other channels is simply to prolong a useless struggle at the cost of misery to the patient, and to the profit of no one but the doctor and the nurse.

Life may well be kept in the body by such means, where it is only necessary to tide over a temporary failure of the digestive organs and give them time to recover their normal tone. But to the old man, when their failure to act is because they are worn out, to the cancer patient, to the sufferer without hope of recovery, is it not cruelty rather than mercy? *

* The following case will illustrate the practice which I reprehend. It is one of several communicated to me by correspondents, who have expressed their concurrence in the views presented by this address.

X., a widow in advanced years, was seized by a cancer in the stomach. She suffered acutely

Queen Charlotte, the wife of George III., at the age of seventy-five was seized by a disease evidently mortal. The court physicians succeeded in keeping her alive in lingering agonies for two or three months.

"It is really a great misfortune," wrote Mrs. Piozzi,* while this was going on, "to be kept panting for breath so, and screaming with pain, by medical skill. Were she a subject, I suppose, they would have released her long ago."

Perhaps the annals of American Presidents would furnish as sad memories of like effects of science misapplied.

In fact, throughout the civilized world, at the present time, the higher the station or the greater the means of the sufferer by a mortal malady, the less can he hope for a natural death.

Euthanasia may be enjoyed by savages and brutes, and to them only it seems now secure.

An Eastern legend says that, as Solomon one day was consulting with his grand vizier, Azrael, the angel of death, appeared, and cast a look of marked attention upon his companion. The vizier at once begged the king to lend him his magic rug, on which whoever sat could be transported at will and in a moment to the remotest part of the earth. The request was granted. The vizier bade the rug transport him to the centre of the desert of Arabia,

for nine weeks, at the end of which time her stomach refused to retain anything but a little water; and even that caused great pain. For several days she was kept in life and in agony by injections of mutton broth. She had no living descendants. A relative, who had been sent for, arrived from a distant State, to find her in this condition. She was a person of great strength of character, and fully in possession of all her senses. "They will not let me die: I want to die," was her complaint to the new-comer. The latter took the place of the friends who had been in charge of the case, and who had urged in vain that a different treatment should be pursued. The attending physician was asked, "Is it not a hopeless case?" "Yes." "Is she not suffering?" "Yes." "Is she not a Christian, and longing to die?" "Yes." "And do you think it merciful to keep her living by these artificial means?" "I can do nothing else," was the reply. "It is my duty to keep her living as long as possible. I will leave the case in your hands. You can stop the injections or continue them, as you think right. I can do nothing about it." They were stopped, and the poor sufferer allowed to sink away as nature meant; but, had the physician had his way, there might have been days more of useless agony.

Let me contrast it with another case, also communicated to me in like manner.

Y., an elderly man, had fatty degeneration of the heart. Acute symptoms were suddenly developed. He asked his family physician what was the matter with him, and was frankly told. "Is any cure possible?" "No." "How long have I to live?" "A very short time: perhaps a few hours, perhaps a few days." "Can you keep me alive long enough to let Z. get here to see me once more?" "Probably, by the use of champagne." "Then I will take it till he comes." A telegram brought Z. from a distant State. After their interview the patient said, "Now no more champagne," and in a few hours the end came, with no further attempt by physician or family to protract his suffering.

Which method of treatment was the more humane?

* Autobiography, Letters, etc., 419.

and sailed away. Azrael stopped for a moment in his flight to say to Solomon, "I looked at that man so closely because I was surprised to find him here, as I had been commanded to summon his soul, and told I should find him at the centre of the Great Desert." The angel passed on, and at the next moment met the vizier at the appointed place.

In our plain English, we speak the same truth when we say of a sick man, "His time has come." The art of the physician can do no more than the magic rug. At most, it secures a short postponement, but at the cost of useless suffering, not only to one, but to many.

The commonest and simplest resort is to ardent spirits, as a mere stimulant. Where there is hope of thus tiding over a crisis and ultimate recovery may result, nothing is wiser than this. But it is even a fair question of ethics how far one who is visibly nearing his end in the course of nature ought to seek to postpone it by such means.

Every man is set on earth as a soldier is set at a post of duty. Assuming that he has been rightfully set there by the will of God or in the order of the universe, he is, like the soldier, barred from deserting his station until he is relieved by the authority that assigned him to it. Suicide, in other words, is inadmissible, however empty and burdensome life may have become.

But the man struck by fatal illness is called off from his post by the power that put him there. He is, no doubt, under obligation to aid nature in resisting the attack when it comes, so far as concerns the use of the usual and natural means of defence. If its violence will be mitigated by the cessation of labor, by change of diet, by change of air, by the use of medicines, resort should ordinarily be had to these palliations, if in his power. If a recovery is possible, all means of recovery should be exhausted.

But need he go further? Is he bound by any rule of religion or law of conduct to swallow down stimulants, the only effect of which can be to excite the failing organs of the body for a brief time, and a brief time only, into an action natural in health, but unnatural in mortal disease?

Is not this rather cowardice than fortitude?

The call has come. The sentry is to be relieved. Not one new sentry, but a dozen, are ready to take his place; for where is the position in the world that the world cannot well fill, and fill at

once, if a vacancy occurs, from a crowd of waiting applicants? To hang back, to "lag a superfluous veteran on the stage" after hearing and feeling the summons to go, seems rather in the line of shirking one's duty, than of doing one's duty.

I speak only of the hopeless case. I am thinking of the victim of a cancer which has pursued its way to the verge of some vital organ; of the sufferer from consumption, worn to a shadow of his former self; of him whom, as we say, the doctors have "given up," and who is simply lingering on the brink of a kindly grave; of the old man whose years have run their course, and left him no strength to meet some malady with which youth might successfully contend, but under which his life is gently and painlessly ebbing away.

I speak of the man himself. His friends may be pardoned for putting stimulants to his lips. Perhaps we should not pardon them, did they not urge them upon him. But, if he feels within him that death is near, in the ordinary course of things, he has, it seems to me, the right to reject such aids to the continuance a little longer of a life that has no remaining value.

Particularly is this true of the old man.

"For, when his hand was palsied, and his eye was dim,
Then it was time to go."

Happy he, if nature calls him quietly away before the doctor can be sent for.

The Church of England has taught her followers to pray to be delivered from sudden death. It is one of those instances in which her founders half followed and half departed from the Prayer-book of the Church of Rome. In that, with greater reason, it would seem to me, the petition is to be delivered from *mors subita et improvisa*,*—a sudden death when we are yet unprepared to die.

The old have had a long time for such preparation.

In determining the nature of a disease, we look for the cause to the symptoms.

Nature has so ordered it that symptoms are most readily

* The rejection of this word was certainly unnecessary to avoid a sanction of the doctrine or rite of extreme unction. The term is broad enough to cover the want of due provision for the case of death, in any or all particulars.

observed at that time of life when life is best worth saving. A lesion of one organ may then be expected to produce a reaction throughout the system. There is a general sympathy of the parts. On the other hand, in old age the outward manifestations of an interior lesion seldom indicate that more than one organ is affected, and are often hardly noticeable at all.* The patient does not know that he is a patient. There is no occasion that he should. The weakest part of his bodily mechanism has broken down. Why rack him with anguish in some vain endeavor to patch it up? Another is hardly less weak, and must soon succumb. Better for him and for his friends that his last days should be unclouded by the apprehension of coming death, and the change come to him quietly as a dream in sleep.

• As the old man has a right to a natural death, so has the unfortunate babe, that is born into the world with physical defects that, but for a surgical operation, would in a few hours or days take it out of it, when this surgical operation can only save the life by making it a daily and hopeless misery. If any physician is here, he knows what I mean. He has, perhaps, himself put the case frankly before the unhappy parents, and yielded to their desire to save their child from death at any cost. He has watched the sickly infancy, the feeble childhood, the solitary youth, the long years beyond of daily discomfort, mortification, self-abhorrence, separation from the world.

Nature has her invariable laws. By one of them malformation, preventing the due exercise of any vital function, leads to death. The suffering will not be long. Man can throw his skill in the way of this law, and interrupt its course. He can attempt to reconstruct the body where nature has failed. He can, in a sort, reconstruct it; but is it in such a case as I have brought before you worth his while? Is it not rather a sin against the helpless being, who, for no fault of his, enters our world under conditions that forbid his enjoyment of anything it has to offer? Could he be consulted, he would surely say, "Leave me to my God."

It is a great responsibility this, that rests on modern medicine. It has a power to hold us back from the grave, in a state of long-drawn agony, for a few days, a few weeks, a few years, to which the physician of antiquity was a stranger. But are we sure that

*Charcot on the Diseases of Old Age, Lect. II.

the course of Nature with mankind is really at fault? May not she know best when she has had enough of us in this stage of being? Or, to rise to a higher and truer level, may not the God over all, who has ordained these laws of bodily decay, though he has also ordained these laws later discovered by us, of scientific physiology, be safely left to name the time for calling his children home? That he has given men some brief power to hold them back is not of itself and always a warrant for its use, when under all reasonable possibilities the result will be only a short postponement of an inevitable end, purchased at the cost of pain to the dying and barren of any intermediate opportunities for good.

Time and life have no very close relation to each other. The shortest life may, by its reflex influence on a mother's or a father's character, achieve the most.

Man, at his best, dissociates himself from time. The being that can, unaided, measure the stars, mark out their courses, read the very chemical constituents in their beams of light, cannot forever be limited to this petty point in the universe which names him man, nor his life divided into hours and years. Such great years, even, as may be known in that distant centre about which our whole solar system revolves, are unworthy of the human soul. We are of the world of eternity. The babe may be summoned from it: the dead return to it.

If those who inhabit some constellation whose rays, though moving like the lightning flash, take a hundred thousand of our years to reach the earth, have, as they doubtless do, maps of the world, how insignificant must seem this little planet that is among the least even of its fellows, how infinitesimal the longest eras of human history!

It will matter little, says a homely and but half-true proverb, a hundred years hence what we may do to-day. A hundred years hence? A day? These are both unmeaning terms to one "made in the image of God," when he reflects on what he shares, where he belongs. We lose the sense of time in sleep and in insanity. We lose it, in other words, when the mind is not in control. Time is of the mind, not of the man.

In the days when suicide was deemed an act which circumstances might sometimes justify, the philosopher Thales declared that there was no difference between life and death. Why, then,

cried one of those to whom the remark was made, don't you put an end to your life? Because, was the reply, there *is* no difference.

In our best moments, when, looking up perhaps to the stars of night, we throw ourselves out of ourselves into the greater harmony of the universe, we feel that the body is not a necessary constituent of the man. And even here, while we are joined to it, the best body seldom contains the best mind.

Henry Drummond has pointed out that the fullest physical perfection in man seems to be incompatible with the fullest intellectual perfection.

The American Indian whom our fathers encountered here was a different being from them in his powers of sense. Look at him as he is painted to us so vividly in the "Leather-Stocking Tales." His eye is like the hawk's, his ear like the deer's, his step light and swift as the tread of the bicycle. Let him follow a wood-path for a mile, and he can tell you who has passed over it before that day, and how long before.

Such was the American of three centuries ago,—magnificent as a specimen of the natural development of the capacities of the human body, when unaided by mechanical contrivance, unillumined by the light of science or literature or philosophy, but with no higher quality of mind or character than he shared in kind with the dog that ran by his side,—his very heaven a selfish dream of satisfied sensuality,

There was a certain truth in the principle of asceticism or monasticism. To get away from the dominance of that which is mortal in us is to get under the dominance of that which is immortal in us.

Old age does this for all. Its steady contraction of the vital forces leaves the soul more and more free to reach out to something higher.

And, whether it be in old age or in youth, a time comes to every man when the dominance of the mortal is attacked by a force which he cannot long resist. The physician can recognize the coming, and predict the end. We call it a fatal disease. Fatal! Rather let us say kindly, divine. One by one, Nature reclaims the senses that have served, the forces that have stirred, this transitory being, to energize in new forms some other of her manifold creations. Medical art cannot stop this process. Protract it

it may for a few days, weeks, years, perhaps. But, if the patient does not wish his suffering prolonged, why should this unnatural pain be forced upon him? His real life, his natural life, is ended, and we may as well hope to overcome the force of gravity by mechanical devices as to save for good what in the order of the universe must be destroyed for good.

There is a pessimistic couplet which declares that

“A theatre they who build a house prepare.
Life's tragedy will soon be acted there.”

Tragedy? If a tragedy there be, death will play but a small part in it. Rather let us say that life is a melodrama. The comedy that leads to marriage and follows marriage is longer in the acting and deeper in the feeling than the tragedy which ends in death, and which nature, if left unthwarted, will limit to a single scene, and that of the shortest.

Birth, marriage, death,—these are the landmarks in every normal human life; and each one of them is as natural as the other.

We easily, indeed, may forfeit the right to pass from a state of ordinary health to a painless death by our own neglect of the laws of the universe. Dr. Johnson once observed that chronic disorders come from ourselves. “To die is the fate of man, but to die with lingering anguish is generally his folly.”*

Doubtless, his folly, we may add, if he creates a struggle when nature meant none, by interposing the resources of medicine and surgery to prolong an agony which they cannot prevent.

Are we sure, let us ask from another standpoint, that we have always a moral right, a right as against ourselves, thus to postpone the hour of death?

The domain of eschatology has been considered as belonging peculiarly to the poets and theologians; but students of social science are no less bound to study its problems in their bearing on those of human life.

Was Tennyson right, in his “Ode on the Death of the Duke of Wellington,” when he declared that

“We doubt not that for one so true
There must be other, nobler work to do
Than when he fought at Waterloo,
And Victor he must ever be”?

* Boswell's Life of Johnson, v. 33.

Was Wordsworth right when he asserted that

“Our birth is but a sleep and a forgetting:
The soul that rises with us, our life's star,
Hath had elsewhere its setting,
And cometh from afar”?

Was Euripides right when he asked

“Who knows but life be that which men call death,
And death what men call life”?

What is the meaning of the farewell saying of Christ to his apostles,—

“In my Father's house are many mansions. I go to prepare a place for you”?

Is there a place waiting for every one, which every one is equally fitted to fill? Or is each to have a place which is especially fitted for him, and that has been made ready for his coming?

Is life on earth for every individual merely a brief chapter of a long biography?

If that future life, which we connect with the name of heaven, be one of activity in endeavor, of energy of achievement, of the strong helping the weak, the wise instructing the simple, are we sure that the analogies of life here are so far deserted that there is always work for all, appropriate to each? Or may, in a certain sense, time, that is the due order of succession in events, have its reign in other worlds, and positions of usefulness in this planet or in that be assigned to new-comers as vacancies arise, and only then?

If so, a natural death, coming in ordinary course, may be the divine way of calling one up from a condition of existence to which he is unfitted or in which he is not needed to one in which he is needed, and needed at once. To postpone it, to protract a life in doing so by stimulants and injections and every possible effort of medical skill beyond its seemingly appointed bound, may, looked at in this light, risk the loss of a fitter place in a larger life,—the loss of a God-given opportunity.

Sydney Smith declared that the true philosophy of life on this earth was to take short views of it. Of life on this earth, yes. But of life in the large sense our very love of knowledge, of solv-

ing hard problems, of scattering the clouds of mystery, bids us take long views, and might well make more men court death if more men thought it right to hasten its coming.

Pascal once said, "Nous ne vivons pas; mais nous espérons de vivre." The value of what we call human life, to an inquiring mind, lies really in the second chapter. The book is not closed when mortality claims its own.

We are not sure that the dead know the secret of life; but we are sure that we do not, and that they may.

How man was made, evolution may have taught us. Why he was made, and to what end,—these are questions not to be solved by him while on the earth. They are the supreme questions with which humanity has concerned itself from the remotest times. Who is not anxious to learn the answers? Death may dissolve the mystery, as it dissolves these dull senses of ours that see so little of what is before our eyes, hear so little of that which is done about us, apprehend so feebly what is brought within their range. It may; and this very possibility lends it a certain charm. It is our body which shrinks back from it more than our spirit.

The century which is about to close, and whose children we are (for, though we may share the life of the twentieth, its spirit we never can), has ennobled the world by bringing back the human mind to a more rational conception of God and of his dealings with our race. One of the best results of this is that death has lost half its terrors for the present generation.

It was dreaded in past times, because of the general, popular belief in a place of never-ending torment into which the mass of mankind, unless rescued by a miracle of redemption aided by the efforts of the Church, passed to suffer through all eternity unremitting and agonizing pain.

The thought of a hell, which was to be the everlasting home of departed spirits, had found no place in the philosophy of Greece or Rome.

Socrates held that evil doers would be simply excluded from the councils of the gods, and Cicero * and Seneca agreed in rejecting as childish the conception of any state of positive punishment.

But the Christian religion, which has done so much to illuminate and recast human life, in its ecclesiastical development of

* *Tusc. Disp.*, i. 21, 30.

doctrine was thought to require us to build up our conception of the unseen world on the assumption that man had been originally created a sinless being, and by his own evil choice had fallen from this state of perfection, and fallen so low that he deserved the severest punishment.

Protestant theology has more to answer for perhaps, in this, than Catholic theology. When the new church of the Reformation put together its beliefs in institutional form, it was by the hand of Calvin. He taught, and the Protestant confessions generally repeated, that a man passed at a single step from this life to another in which he was to find himself immediately and unalterably in a state either of inexpressible happiness or inexpressible misery. A more critical reading of the New Testament, a closer study of the teachings of Christ, and a deeper sense of the divine in the universe, have combined, during the last quarter of a century, to bring the Christian world nearer together in matters of eschatology. There is no great distinction in doctrine, in this regard, between those who hold to a purgatory and those who speak of a larger hope or a state of future probation.

When death was dreaded as a door through which most men plunged headlong into a sea of everlasting fire, every moment during which the plunge could be deferred might be well worth purchase at the cost of any lesser pain. Now few thoughtful men look at the next world as holding a place of torment, apart from that brought by regret, remorse, grief over wrongs done, and opportunities wasted which might have brought us nearer to our God.

The one great, all-dominating lesson which the nineteenth century has taught is its last, the law of evolution. It points to a descent of man from inferior states of bodily form and condition, an ascent of man from inferior states of moral form and condition. We read our Bible by this fresh and stronger light, and find that it confirms rather than opposes this new way of looking at human history and human destiny. It speaks with no uncertain sound of the fundamental law which lies back of that of evolution,—that of cause and effect. “A good tree cannot bring forth evil fruit, neither can a corrupt tree bring forth good fruit.”* “Be not deceived; God is not mocked: for whatsoever a man soweth, that shall he also reap. For he that soweth unto the flesh

* Matt. vii. 19.

shall of the flesh reap corruption; but he that soweth unto the Spirit shall of the Spirit reap eternal life.”*

This is not the place nor the occasion to ask what is the true teaching of theology and philosophy as to what lies beyond the grave. Those who think that death ends all; those who believe that it is a mere step to another stage in life, in which the character formed here retains its hold upon us and shapes our course; those who contemplate an intermediate state through which one may rise by some help from earth to heaven; those who look forward to some one great judgment day, when the final sentence is to be pronounced which assigns to each of us his proper place in the realm of created being, all,—I say, who think on these things, whatever be their particular conclusions, agree in this: that there is no future state of corporeal torture, or, what is analogous to it, such as once was painted by those in authority, and colored with lurid fire the religious literature of at least fifteen of the Christian centuries.

I do not mean to say that the majority of Christian believers have yet attained to this position, but I believe the vast majority of thoughtful men and of Christian teachers have. As it is being daily accepted by greater and greater numbers of every rank and station, it calls for a revision of more than one of the old canons of thought and action.

The successful man, the true man, the man who follows the order of nature, is he who keeps his life continually adjusted to its surrounding conditions. As they change, he must change; and, the sooner the readjustment comes, the more striking is his success. We do not get on in business by following the laws of trade of a hundred years ago or of ten years ago. The telegraph revolutionized methods of business negotiation, and the telephone has revolutionized them again.

What, as we look back from the door of the twentieth century, have we done in the last quarter of the nineteenth toward adjusting ourselves to this new conception of the nature and consequences of death which came to us in the preceding quarter? If it is no longer feared, as it once was, for what may follow it, ought we to counsel the dying to sacrifice so much to postpone its coming? Is it not an unnatural contest with a kindly as well as an unconquerable fate, or let us rather say a kindly law by which God

* Gal. vi. 7, 8.

rules the universe and makes it a fit place for the habitation of those whom he has made after his own spiritual image?

Why is it now, in these days of a larger hope and a lesser fear, of a deeper assurance to the religious believer of the true fatherhood of God, a profounder sense to the agnostic, and to the atheist, no less, of the futility and unwisdom of dreading what we call the supernatural, that we ever engage in this contest at the finish, in this struggle for a little more of time, when we know that it must be a brief and losing one? The truth is that, while we may instinctively shrink from death, as from all that is mysterious and unknown, while we must ever cling, so long as our hold is yet firm, to certainty, to friends, to the work to which we are wonted, to the faces and scenes that are dear and familiar, yet, if we get to the bottom of our repugnance to the surrender of life, we shall find it in great part a repugnance to dying. It is the act of death rather than what comes after death at which we shudder. It is the yielding to an overmastering force; the being beaten down and conquered against our will; the pain and discomfort that may precede and attend it.

Let us not make such pain and discomfort by our own efforts, when nature would gladly spare them. Let us not fight, when there is no fighting chance.

I do not speak of the doubtful case. I speak of those where the physician's maxim, "Dum spiro, spero," has no just application, where the veil of the shadow of death is visibly descending, and longer life can mean only longer suffering.

In Mr. Baring-Gould's gossipy reminiscences, he mentions that a visitor in a thinly settled part of England was told by one of those he met that no physician lived within ten miles of him. "What! ten miles from a doctor?" "Yes, sir," said the farmer, "ten miles. Thank Heaven, we all in this parish mostly die natural deaths." Is there not some reason for such gibes? Is there not some real occasion for the protest which I have uttered against "man's inhumanity to man" in the new, strange form it has assumed as an incident of the healing art?

I have spoken the more freely on this subject because no code of medical ethics of any school of practice countenances that which I denounce. The physician is enjoined in cases of fatal disease to continue in attendance for the purpose of alleviating pain, but not to protract or produce it.

Many of them, no doubt, have felt warranted, at times, in shortening by opiates or chloroform a life that had lost its value and lasted only for pain. I do not ask if this be right. I do say that it is not right that such a life should be prolonged in hopeless misery by medical art, against the sufferer's will, when Nature or, let us rather say, that God whose voice is Nature has plainly called him away.

ANNUAL REPORT OF THE GENERAL SECRETARY.

BY FREDERICK STANLEY ROOT, M.A.

[Read Monday evening, September 4.]

In reviewing from time to time the publications of this society in search of papers of special importance, I am always impressed by the fact that our essayists cover a field of remarkable extent and breadth. It might almost seem as if the Association tacitly, or at least impliedly, adopted the oft-quoted sentiment of Terence as its bill of rights for the guidance of speakers: "I am a man, and nothing that concerns a man do I deem a matter of indifference to me." And in the treatment of vastly divergent topics it is a pleasure to note the further fact, certainly prominent during the brief period of my official connection, that those who read before the Association have written in the spirit of the ancient who declared that men should utter their thoughts *nec temere, nec timide* (neither rashly nor timidly.) And, although it is a far cry from Dr. Hitchcock's paper on "Marital Property Rights" or Mr. Darwin's paper on "Infant Development" to the address of our President this evening, I am persuaded that such wide scope of investigation, still obedient to the sentiment of Terence, confers much of the value always attaching to the printed transactions of this society. And most legitimate the range. For Education and Art, Jurisprudence, Social Economy, Finance, and Health are five great thought Boulevards, radiating like gigantic thoroughfares of the mind from the common starting-point, where man first begins to ask himself, what do I know, what are just legal restraints upon my conduct, how must I act, ethically, in relation to my fellow-men, what system of monetary issue and distribution will best meet the individual and common industrial necessities, and how may I most successfully preserve my bodily and mental faculties, to answer intelligently the foregoing inquiries? And, surely, it would go hard with *any* association in these days of enlightened thought if that Association should refuse to shape its policy in accordance with the truth contained in the aphorism, "On the

intellectual sea there is a space for every sail, room for every pinion."

In consonance with this undeviating plan of conducting our debates, your General Secretary, in his last report, did not hesitate to offer, with perfect frankness, certain hints and suggestions relating to the executive and business functions of the Association. I need not recapitulate. These suggestions are incorporated with the last volume of our printed Journal. At present, I have nothing further to propose, *in extenso*, unless brief and fugitive hints in the course of this paper may be viewed in the nature of suggestions. Owing to circumstances entirely beyond control, circumstances quite normal in arranging for the meetings of any board of directors scattered here and there throughout the country, we have been unable at any given meeting to secure a moderately full attendance of members of the Council. At the midwinter meeting in New York City, usually the most important of the year, the notable blizzard that blocked the wheels of traffic with icy and relentless hand reduced attendance far below the average. Contemplating this fact, and also because our yearly official proceedings are withheld from the body of our membership until the Journal goes to press, a brief statement of what has been done would seem proper. I take it that the office of General Secretary does not demand a sociological essay at this time; for, whatever opinions your Secretary may hold on debatable problems of human society, his special concern just now deals with executive functions only. Therefore, I proceed at once to these matters.

Since our last annual gathering two Council meetings have been held in New York and New Haven, respectively; and the principal business transacted already appears upon the first page of the program. In addition thereto, we note the election of Professor Isaac Franklin Russell, D.C.L., of New York, to the position of Secretary of the Jurisprudence Department, in place of F. J. Stimson, Esq., of Boston. A resolution was also introduced recommending the adoption of a corporate seal to be used on the title-page of the future issues of the Journal of Social Science. This was referred to a sub-committee, consisting of President Baldwin, Hon. F. J. Kingsbury, and the General Secretary. In the matter of order of days in which the several departments should present papers, it was deemed advisable to follow the order

of the preceding year, although your Secretary is of the opinion that, if Heads of Departments are desirous of change from year to year, on the ground that some days are more likely than others to bring large audiences, an alteration of sequence would be courteous and fair to all concerned.* In regard to the present status of membership we have to report 13 resignations during the past year, while 42 new members have come in, making the total membership to date 362, exclusive of honorary, life, and corresponding members.† Since assuming the office of General Secretary, two years ago, we have to report the addition of 187 new members, about doubling our strength since 1897. It should be said, however, that, if the resolutions passed at various Council meetings, with reference to the dropping of members who have failed for three consecutive years to pay annual dues, were strictly enforced, some reduction of the total membership would follow. But, in view of the fact that your Secretary was further empowered to use his own discretion in carrying out the terms of these resolutions, he has deemed it wise to "make haste slowly" in dealing with recalcitrants. And, if one may be permitted to refer to one's experience in another vocation, that of the ministry, as illustrative of the value of leniency, I may say that delinquent pew-holders were sometimes induced to make up past arrears, and to remain in the fold, by making the church so attractive that they would eventually stretch a point to liquidate obligations. I think the parallel holds in the present instance.

As to our financial status, information may be obtained of the Treasurer, Mr. LeGendre; and it is a question in my mind, although I find no record of such procedure, whether, upon the whole, it might not be desirable for the Treasurer to report directly to the Association upon the conclusion of the Secretary's address, making such recommendations as to future financial policy as may appeal to his judgment. It does not necessarily follow that it would be wise to publish such statement in the Journal whose circulation is not confined to members of the Association.

In general, I believe it may fairly be said that, unless unforeseen complications arise, we are in the pathway of assured progress toward higher usefulness in the work of shaping thought-currents

* Action taken upon all resolutions and suggestions will be found under the head of "Business of the Association."

† Since the above date, September 4, many new members have been added, and other changes recorded. See lists of members.

affecting vital questions uppermost in the public mind. Some have left us reluctantly, but, impressed by our ancient *prestige* and manifest standing as an organization, have avowed the purpose of returning as soon as finances will allow. This feature of the situation only makes clearer our privilege, and, I trust, our purpose, so to extend, enlarge, and diversify our work that those whom we elect to honor with membership cannot afford to hold aloof. The occasion is not yet ripe,—and I speak solely according to the light of my own judgment, which may be entirely wrong,—the occasion is not yet ripe, it may *never* be ripe, for certain changes of method which, I believe, would enhance the attractiveness of our meetings. Personally, for example, I deem it advisable to increase the number of essayists and debaters, and reduce the time-limit allotted each. In noting programs of ministerial and other conventions, I am impressed by the fact of increasing brevity in address. One notable association reduces the time-limit to twenty minutes, and the gavel inexorably falls at the expiration of the allotment. If we desire large audiences to encourage speakers, we must be certain of topics that "suit the word to the flying event" with a brevity and point conducive to alert attention. If our purpose is to procure expert papers without any regard whatsoever to popular quality, and the matter of attendance is altogether secondary, while publication is primary, then we may go on as we have done. It is wholly a question of what the Association contemplates, and what the Association wishes I will execute to the best of my ability. The personal view is quite a minor consideration,—a personal note possibly at variance with the prevailing note, and of no immediate consequence.

Suffice it to say, in conclusion, that whatever changes in plan and purpose are ultimately effected, if at all, will be achieved by virtually unanimous approval of our Council of deliberation; and the reason and judgment of so carefully constituted a body may be safely trusted. And we have no other ultimate test of fitness other than the test of the philosopher who declared, "Truth works well, and what works well is truth." Meanwhile, as in departed years, we now invite your attention to papers and debates upon living questions by men equipped with special information in their respective fields.

I. DEPARTMENT OF EDUCATION AND ART.

I. ADDRESS BY THE CHAIRMAN,

THE REV. JOSEPH ANDERSON, D.D.

[Read Tuesday morning, September 5.]

I have very little to say, this morning, in reference to the subject before us. Having just emerged from the Adirondack wilderness, I find it rather difficult to concentrate attention upon its various phases, as they have passed before my mind during the last two or three months. You will observe that our department this year has only half the quota of time which it usually occupies, the evening being set apart for a special meeting of the "National Institute of Arts, Science, and Letters." This new child of our Association is to organize itself a little more systematically, I suppose; and it seemed worth while to assign to it the evening. As our department embraces art as well as education, it is appropriate that the meeting of the new Institute should be held on the evening of our day.

For several years past, as some of you may have observed, we have been considering in this department the various processes of education that are going on in the world outside of school and college. We discussed at one time the educational influence of modern fraternities, at another the educational value of the drama, at another the relations of education and art; and it was my intention to have a discussion to-day of the educational influence of the public library, but that is necessarily deferred until another time. The same general line of thought, however, is to be followed out to a certain extent; and we are to have a paper this morning, as you see, by Mr. Arthur Reed Kimball, an expert journalist, on "Education by Newspaper." We are to have also an address by Professor Arthur B. Woodford on "Twentieth Century Education," which will be suggestive, no doubt, rather than distinctly prophetic, and then later an address

by Mr. W. H. Baldwin, Jr., on a subject which has been before us within a few years past, and which ought to be of permanent interest to all earnest American citizens, "The Problem of Negro Education."

It is proper, by way of introduction, that a sort of summary of what has been going on in the educational world should be laid before the meeting. At any rate, there are two or three things that I desire to touch upon. An educator who is thoroughly informed in regard to the subject — I mean President G. Stanley Hall — has recently remarked that interest in education is advancing with "almost appalling rapidity"; and Professor Nicholas Murray Butler, who has placed before the public in an elaborate paper the educational processes of the last year or two and their results, says substantially the same thing,—that great interest is being exhibited at the present time in educational matters, greater than in the past. Professor Murray's review calls attention to an interesting fact,—interesting to those of us who have an eye for the literary side of things,—that an unusual number of valuable books have been published during the past two years, bearing very directly upon educational processes,—books full of wise thought, by men of great ability. And one of the facts which come to light in an examination of this literature is that there is a tendency toward unity, more marked than heretofore, in the conceptions of thinking men and educational workers regarding education as a whole. Time was when there was a kind of divorce between scholarship and educational work, although it seems almost paradoxical to say so. The college men seemed to have very little interest in educational processes. The day when that was true has passed; and we find men in our colleges and universities, as well as elsewhere, grappling with educational problems, and affirming that education, from first to last, is to be regarded as a unit,—that all its departments are interconnected, that the elementary school and the high school are to be viewed as in close relation to one another, and these schools in close relation to our colleges and universities. It will be impossible in the twentieth century to perpetuate the divorce which has so long existed. It will be a matter of course that students of educational questions will recognize the relation of one department to another, and will see that educational processes, all the way from the elementary school and, in fact, from the home, to the completed professional

course, are *one* process, having in view the development of the individual, preparing him for work in the world of the most useful kind to himself and for fulfilling his relations to society.

I notice that in the reports on educational progress attention is called to improvements that are taking place in administration, especially in the administration of our public schools, and that the one demand which serves as a keynote is the demand for greater efficiency. Hitherto efficiency has been seriously interfered with by the perpetuation of ancient systems that are not in keeping with modern views and modern machinery, and interfered with always by political influence, of a kind with which we are very familiar. Those who have looked carefully into the matter say that in our public schools we are becoming emancipated to a considerable extent from political tyranny, and are also breaking away from the bondage of traditions. Great progress has been made in some of our cities in the reconstruction of school systems. In whatever direction we look in our own country (and the same is true of other leading countries of the world) there is occasion for satisfaction and hope. It seems as if we had really entered upon this old field in a new way, and were likely to secure new and improved results.

One of the things in which some of us are interested is the curriculum, not only of our colleges, but of our schools. I notice that the subject is being agitated as much as ever, and that the agitation relates to the elementary school and the high school as well as the college and the university. There are details, of course, which I cannot touch upon, but I am sure the intelligent agitation of this matter is a fact in which we ought to take decided satisfaction. The idea of efficiency is giving the keynote here as elsewhere; and there is a difficult question involved,—namely, the relations of "utility" to life as a whole. It is insisted upon that our education must be a utilitarian education; that is, an education that shall fit the individual to do his work in life. As if life consisted exclusively of work! Do scholarship and business exclude one another? Shall the man of affairs cease to be a scholar? Is it impossible for a man of affairs to be a man of culture? It seems to me that, when we talk of utility in connection with education, when we insist that a person shall be educated solely with a view to earning his bread and butter, we ought to remember that, as civilization advances, life becomes,

or at least ought to become, more and more leisurely, not only in the case of the individual, but in the community. We ought to educate ourselves and our children with reference to something else than the perpetual grind of business and money-making. I observed in a New Haven newspaper an article referring to Mr. Richard Harding Davis's recent article on courses of study, in which the writer insists that the education given in our primary and secondary schools unfits children for the real business of life. Astronomy, botany, and modelling in clay are mentioned as representing certain fashionable fads that are of no use whatever to a child. But that depends entirely upon what constitutes "use." If a person, as he grows older, takes a deep interest in astronomy, if a young woman finds more to interest her in botany than in almost anything else, or a young man takes delight in modelling in clay, why should these things be condemned as useless? What constitutes use? The point I desire to make is this: that we ought to educate ourselves and others with reference to a condition slowly but surely developing, in which we shall have a little more time, shall have leisure for culture, for looking around us, for taking a calm view of life, for "deepening the soil of the mind," and not to educate ourselves and others solely with reference to that great dominating interest of American life, business and money-making. The time must surely come when the almighty dollar shall cease to be worshipped as it is now, when all the things of life shall not be made subservient to that one thing. With this result distinctly in view, we ought to be preparing the way for it. As a people, we Americans ought to be providing for that good day when the race shall not be run so eagerly, when the struggle shall not be so fierce, when we shall sit down to the calm enjoyment of life, the enjoyment of our deeper thoughts and our higher emotions and hopes. And how shall we provide for it? Not, certainly, by limiting education to the lower functions of life and disregarding those that are noblest and best.

2. EDUCATION BY NEWSPAPER.

BY ARTHUR REED KIMBALL, ESQ., OF WATERBURY, CONN.

[Read Tuesday morning, September 5.]

One aspect of this subject has been frequently discussed,—the negative aspect. I mean the education which the newspaper ought to give, or which newspaper readers ought to get from it; according to the point of view, that is, if the newspaper measured up to a high journalistic standard, or if newspaper readers were interested in significant news rather than in news which is trivial, sensational, and demoralizing. The current events clubs, which are more or less common, and which are a kind of popular adaptation of university extension methods, are suggestive of the possibilities of education by newspaper in this sense. From an editor's point of view,—and that is the point of view from which, of course, I am speaking,—so few out of the whole number of readers are educated up to the standard of a current events club — that is, care anything about significant news unless it is of supreme importance, like the result of a presidential election or a declaration of war — that it seems a waste of time and effort to take such readers primarily into account in the making of the ordinary newspaper. This is not, of course, a high view to take of the mission of the editor; but it is a necessary view, regarding the newspaper as a business. This, unfortunately, is perhaps the controlling view under existing conditions. Few people realize the amount of capital required to equip properly a modern newspaper, the expense of the pay-roll, and the tremendous incidental expenses additional. Few people appreciate the fact, with which those who read the trade journals issued for newspaper men are familiar, that in the last two or three years almost no new newspapers have been started, and that, with rare exception, no newspapers in the large cities have lowered their price. This means, simply, that publishing a newspaper has grown to be so expensive a business, and the profits from newspaper ventures are, on the whole, so unsatisfactory (despite conspicuous exceptions), that the claims of

capital must come first in controlling the policy in the publishing of any large newspaper.

In his address on Newspaper Tendencies, delivered in 1879 before the editorial associations of New York and Ohio, in which he analyzed the expenses of publication, Mr. Whitelaw Reid stated that the *Tribune* in the last year of the Civil War spent for war correspondence \$25,706 and for special telegraphing \$12,632, which was then regarded as an enormous outlay. In the Franco-Prussian War the *Tribune's* telegraphic bill, so Mr. Reid states, was \$85,303.51, largely payable in gold, besides an additional bill for correspondence of \$43,263.46, also largely payable in gold. With the cost of editorial salaries included, the expense to the New York *Tribune* of "covering" that European war was about four times as great as its expenses in covering the last year of the great Civil War, largely, of course, because the use of the cable costs so much more than the use of the telegraph, but even more because of an increased demand for news, which the *Tribune* was bound to satisfy, whatever the expense. The Spanish-American War cost not a few leading newspapers \$1,000 a day, or at least \$60,000 for the two months while it lasted, with a heavy additional expense for what was practically war news for a long time after the formal close of hostilities. The Associated Press spent \$274,514.14 for covering the war, of which \$127,539.83 was for cable tolls, and \$75,252.61 for yachts, etc; and \$32,399.85 was for correspondents and their expenses. These figures give some idea of what a war costs journalism. Adding to this, all ordinary expenses, with a pay-roll of four or five hundred persons (that of a good-sized factory), and remembering that the standard of the metropolitan paper which circulates everywhere is the standard of the larger provincial papers, as far as they can attain to it, and the reason is obvious why only a few plants among the daily provincial papers are profitable and why so few new newspapers are started in either the metropolitan or provincial field. It is also obvious that in a business requiring so much capital that capital must be in control of the business. As the object is to increase circulation and thus to raise advertising rates, increased circulation meaning increased advertising patronage, the necessity is again obvious for a policy in editing which shall please the greatest number of persons, and not the select few.

In this connection it is interesting to note, in passing, Mr. Reid's

prophecy of twenty years ago, that newspaper expansion had reached its limit. That prophecy reads to-day like a futile protest against the inevitable. That expansion has been accelerated by the use of type-casting machines, and was, as he then acknowledged, a probability which many able editors regarded as certain. It is another evidence of the undiscriminating character of the newspaper public,—people buying a paper for its size, and not its quality. It is also a concession to the larger advertisers, who require the proximity of reading matter. This is Mr. Reid's prophecy :—

I do not believe that the daily newspaper of 1890 will give many more pages than that of 1880. Book-making is not journalism. Even magazine-making is not journalism. The business of a daily newspaper is to print the news of the day, in such compass that the average reader may fairly expect to master it during the day without interfering with his regular business. When it passes beyond these limits, it ceases to be a newspaper ; and it ceases to command the wide support which is essential to its success. . . . The great revolution in newspapers is not, therefore, to be in doubling their size, in doubling the quantity of matter they give, or in doubling the multitude of subjects they already treat.

This hasty, incomplete statement of the facts is offered, not so much by way of apology for the present standard of newspaper editing as by way of explanation, because these facts are not understood by a great many people who criticise—justly from an ideal standard—the general policy of conducting a modern newspaper. For my own part, I see no prospect of a change in the situation until a much larger proportion of newspaper readers than a newspaper can hope for in its constituency to-day feel an interest in a better class of news than that which fills to a large extent the columns of most newspapers. One remedy offered is the teaching of the newspaper in the schools. It is argued that, if children were taught to discriminate in their newspaper reading, they would come to take an interest in significant news, and learn early not to care for trivial and sensational news. There are certain practical difficulties in the way of this, principally the fact that significant news largely concerns matters of dispute regarding which partisan feeling runs high, such as religion and politics, and that a teacher would thus require a tact almost miraculous to instruct in significant news without giving instruction that would offend parents.

But there is no doubt that reform on this line must come before there will be any great reform in newspaper editing. In other words, a newspaper must have a sufficiently large constituency of people interested in high-class news before capital will be invested in the publication of high-class newspapers.

All this, however, is quite aside from the aspect of education by newspaper, to which I propose to call your attention. It is not the education which we might get from newspapers if they were edited by a high standard which it is here my purpose to discuss, but what may be called the unrecognized education we are all receiving from the newspapers as they are, all the time, to a large extent unconsciously. The truth of the matter is that, when we talk about interest in significant news, as if there existed among newspaper readers a class of highly intelligent people who are almost exclusively interested in such news, we are really talking about a few individuals, and not a class. All of us find that those who take the most interest in what is going on in the world will often read in a newspaper with the greatest actual interest what is trivial or even sensational. It is a commonplace of newspaper editing that some high-toned gentleman, who condemns a certain news article as something that it ought to be criminal to print, will go out quietly, and on some obscure corner buy a copy of the paper which contains the very article he condemns. But this is only a part of the story. One morning I happened to go into the office of a friend on the editorial staff of a leading New York magazine, himself a literary man of high standing, who remarked that the morning newspaper wasted more time for him than any other dissipation in which he indulged. During his ride to the office he found that he always read what, in newspaper parlance, are called the "stories," some curious bicycle adventure or some tale of tracking a clever thief or some other thing of the sort, rather than news of moment from Washington or from Europe. Not long ago a Kansas City paper adopted the plan of printing on certain days a résumé of religious news. After it had followed the experiment for some time, reporters were sent around to interview fifty persons prominent in the Y. M. C. A. and the Y. P. S. C. E. as to their opinion of the value of the page. Out of the fifty interviewed, as I recall it, forty-four had not read the page at all, but had found "the sporting news more interesting." These are every-day illustrations of the fact that, through constantly reading the news-

papers, we are all becoming educated to the newspaper standard of news. We read first what the "head-line artist" intends us to read. He is the great journalistic educator of modern life. Next we read what are called the solid reports and comments, more or less from a sense of duty. We turn to the first as we turn to a novel instead of a book of essays or science, naturally and without much thought, although perhaps with a little sense of condemnation.

What is true of America is true of England as well. No less an authority than the London *Spectator* takes this view. In a recent article on "What interests the Public" (issue of August 12) it says:—

We confess we generally regard with horror the "personal" items, which had their origin in American newspapers; but they have been acclimatized here, and are, without question, very interesting to the average reader. To read about the daily life of the Prince of Wales at a German spa, or how Mr. Spurgeon's study was furnished, or the circumstances connected with Mr. Edison's marriage, or how Sarah Bernhardt was dressed, or what Mr. Toole and Sir Henry Irving said to one another,—there is nothing more interesting than this kind of thing to millions of our fellow-creatures; and the striking success of certain classes of journals is due to the fact that this personal element has been carefully cultivated by them. On its better side this intense interest in persons is a sort of hero-worship, based on a genuine admiration for some qualities, or supposed qualities, believed to be embodied in some person. Even those of us who feel that "personal" journalism is carried to absurd lengths are not indifferent to information about people. We prefer (accuracy apart) the "picturesque" historians to the "dry" men. We like the gossip of Pepys and Saint-Simon. We like to hear of Milton's light supper of water and olives, of Johnson's toast and unsweetened tea on Good Fridays. The average man only carries that fondness for personal details to a higher power.

It should be noted in this connection that historians feel often no greater compunction than "mere journalists" in appealing to this fondness for personal gossip. A conspicuous illustration is Froude's revelation of Carlyle's home life.

It naturally follows that the newspaper manner of expression, as well as point of view, is the one that is becoming more and more universal. There is a great deal of condemnation of newspaper English, especially its slang. But this method of expression, even with the slang, invades increasingly all our intercourse, formal and informal. There of course arises here the question

of how far the newspaper colloquial style of treatment is simply an expression of the mood of the age, which in its hurry abhors the conventional and seeks short cuts, and how far it is a case of domination of other probable modes of expression by that of the newspaper, to which habit has accustomed us. It must of course be granted that the present day is a day of high pressure, whose note is directness. It has no time for elaboration. Indeed, the art of elaboration which appealed to a former age would make its appeal to-day with small chance of success. But, even if we regard the newspaper in this respect as simply the reflection of the age, the fact that it is read by almost everybody every day must accelerate the tendency, and exercise an important influence in working unnoticed changes in modes of expression and forms of intercourse. The pulpit, the bar, the magazine, even the literary lecture, are conforming more or less unconsciously to the standards of journalism. The making over in form of the sermon within the last few years is striking evidence of this. There are, of course, certain pulpits which ape the press, which discuss questions of the day very much as an editor discusses them, only with less dignity and more sensationalism. But it is not these preachers to whom I here refer. Let any one, who has been accustomed to the old-fashioned sermon as it was constructed after the models of the theological school of even fifteen years ago, go into a modern, up-to-date church, and listen to the sort of sermon he will there hear for illustration of what is meant. In place of an elaborate introduction, a subject painstakingly divided into "Firstly," "Secondly," "Thirdly," etc., and a carefully labored conclusion, lasting altogether much more than half an hour, he will hear a short, direct talk, probably not over twenty minutes in length,—a sermon, perhaps written, perhaps extempore, but in every case characterized by terse sentences, like those of the skilled newspaper writer. Indeed, the sermon is being reformed so much and minimized so much that not a few claim that in the future evolution of the church it will disappear altogether. The prediction is made that the church of the future will be the institutional church, perhaps with no preacher at all, but a successful administrator, who will conduct its many forms of activity by the application of the same talents by which a successful business is conducted. Be this as it may,—and it is an interesting speculation,—there is no doubt that the successful preacher of to-day is

the man who can, as the phrase goes, "talk straight at people" after the fashion in which the best newspaper writing goes straight to the mark without over-elaboration.

The passing of the art of oratory is another tribute to the unnoted influence of the press. It is pointed out, by so good an authority as Chauncey M. Depew, although he does not discuss the cause. When presiding at a recent Harvard-Yale debate, Mr. Depew said: "The last twenty years of college history have not produced a single famous orator in the United States. This is seen mostly in our courts, upon our political platforms, and in the decadence of popular oratory in the Senate, in Congress, and in the various halls of legislation the country over." So far has this tendency gone that a man whose fame is chiefly rhetorical really cheapens himself. To be appreciated as an orator, one must be something else first, and incidentally an orator. The fact that Mr. Bryan was sneered at by the opposition press in the 1896 campaign as "a mere orator" is interesting evidence of the popular attitude toward oratory. This attitude is largely the result of education by newspaper, which has contributed in no small degree to making the oratorical form of expression something that no longer appeals to the popular understanding. Indeed, it has come to be regarded simply as a kind of diversion. It may be noted, in this connection, that the usual formula nowadays for the program of a celebration is that "Mr. So-and-so will deliver the principal address." "Oration" is looked upon as a rather formidable word, suggesting what is tiresome or boresome. A person may "hear an address" with ready willingness, who would pause a long time before deciding to "listen to an oration." The word "oration" is coming to have a classical flavor of antiquity, so largely is the popular usage confining it to college programs, especially to Commencement programs, to refer to those more old-fashioned colleges where Commencement "oratory" still lags superfluous on the Commencement stage. The attempt to galvanize into new life college debating as a means of cultivating oratory is quite too evident an attempt to be successful. College debating is too perfunctory a thing, like learning a lesson or declaiming a "piece," and too little in accord with the newspaper spirit of the age, to appeal to college students as a whole.

What has been said of the pulpit applies to the bar. The phrase "an eloquent preacher" still remains with us. But how

often nowadays does one hear the once equally familiar phrase, "an eloquent lawyer"? The great lawyer of the future has already arrived in the person of the corporation lawyer, whose differentiating qualities are shrewdness, subtlety in the use of words, expert knowledge of statute technicalities, wide acquaintance with decided cases, quickness of apprehension in applying decisions (rather than great legal principles), and a keen readiness of resource in bringing in an unexpected way an action that would stand small chance of success if brought in an expected way. The great lawyer of to-day is not he who can deliver masterly orations on constitutional questions,—a Daniel Webster. Indeed, a professor of English literature of high standing has said that, if Daniel Webster should arise from his grave to-day to deliver some of those orations which so deeply stirred the audiences of his own time, a modern audience would say of him that many of his most impressive sentences were simply a case of "the big bow-wows." No, the great lawyer of to-day is not a Daniel Webster. He is a lawyer who can discover some unexpected, sensational application of a sufficiently well-settled form of procedure, as, for illustration, the case of "government by injunction." A year or so ago this subject was discussed by the press of New York, apropos of a remark attributed to Judge Patterson of the New York Supreme Court, in the course of an address before a law club, that the profession of law had "degenerated into a trade." Judge Patterson, in a half-hearted way, denied that he had said just that; but his colleague, Judge Gigerich, "gave the case away" when, in comment, he said that, owing to changed conditions, "forensic eloquence" had ceased to be of the importance it once was. *Harper's Weekly* at the time thus expressed the general view of thoughtful men. "The atmosphere of the bar," it said, "is now commercial, whereas it used to be professional." The modern lawyer it described as "a business man," practising law as a trade in aid of business enterprises, "governed by precisely the same ethical considerations as govern his adventurous client, and caring little in the main for general constitutional or political principles." *Harper's Weekly* drew one apposite conclusion in saying that "the delights of learning, in which the old lawyers used to take pleasure, to the great advantage of forensic oratory, are no longer a distinction of the legal profession."

A further illustration one may note, in passing, is that oratory,

as it was once understood, is being displaced in modern life by after-dinner oratory, which is so largely modelled on entertaining newspaper writing. There probably never was a time when after-dinner oratory flourished as it does to-day. "Epochs are signalized by their eatings," remarks Kenelm Chillingly, the nineteenth-century philosopher. And our own is signalized by the bad digestion which waits on oratory *à la mode*. It is in kind the same sort of entertainment to which the newspaper has accustomed us, when we turn to it for entertainment,—laughter punctuated by applause.

The newspaper, again, has invaded the field of literature. Even lectures on literature of the first-class are affected by the prevailing method of expression. They are so afraid of being conventional and formal, they are so anxious to say the smart and clever thing, they are so well aware that some strong or daring expression will be remembered, that many of them resort to the same tricks, even of slang, that find so conspicuous a place in the newspaper. For my own part, I shall never forget a certain lecture on John Ruskin, delivered by a professor of English literature in one of our universities, a man of the highest standing as a student, also a man with whose work in the magazines and with some of whose books you are all familiar. He thought that he owed a great debt to Ruskin for influence in the right direction at a critical time in his own career. He acknowledged Ruskin's assistance, and paid his tribute in simple natural language whose force all felt. Becoming more and more impassioned, he closed with this truly unique exhortation: "Tie up to John! Tie up to John!" His case is by no means singular. Quite a remarkable list could be made of prominent literary men who have for effectiveness dropped into slang a good deal as Silas Wegg dropped into poetry, were it fair to particularize them, when so many more are equally guilty. The worst offenders might escape enumeration if only one man made out the list, the *index expurgatorius*. They all bear witness to the same thing: that people have been educated by the newspapers into regard for a certain form of expression; that, to reach the people, recourse must be had to the popular vernacular, even if they are not themselves more or less infected by this vernacular. Another illustration is to be found in the fact that some of the most widely read authors of the day, men whose books may be called literature,—in the case of one of these men, I have the

dictum of Charles Dudley Warner to that effect,—have simply transferred into book work the same style that gave them success in newspaper work. Richard Harding Davis is so conspicuous an example of this that it may be fair to cite him. He has made of the modern reporter's style, one that he learned in the New York *Sun* office, a style which, for description, appeals in its colloquialism to everybody, and aids materially in commanding a wide sale for his books. I once, for my own satisfaction, picked out two or three passages from the New York *Sun's* reports of incidents of the day, and mixed them up with passages from some of Mr. Davis's books, and submitted the results to two or three people of literary judgment. Not one of them could tell which was Mr. Davis's and which was the reporter's, or could see any particular difference between them. For example, take this :—

Nobody ever accused Tommy Larkin of being a tough boy. The worst that was said of him was that he was shiftless and would not work. In the neighborhood where Tommy lived, if a boy is ever going to work, he begins by the time he is fourteen years old ; but Tommy had never done a full day's work in his life, although he was going on fifteen years. Once a grocer had employed him to run errands, at least that was the stipulation ; but the boy's idea of running errands did not agree with his employer's, for he started out to deliver a parcel three blocks away and returned two hours later. After the grocer had said a few things to him, Tommy said he guessed he didn't care anything about working, anyway. After that he just hung around.

Or take this :—

"Hefty" Burke was one of the best swimmers in the East River. There was no regular way appointed for him to prove this, as the gentlemen of the Harlem boat clubs, under whose auspices the annual races were given, called him a professional and would not swim against him. . . . His idea of a race and their idea of a race differed. They had a committee to select prizes and opened a book for entries ; and, when the day of the race came, they had a judges' boat with gay bunting all over it, and a badly frightened referee, and a host of reporters and police boats to keep order. But, when Hefty swam, his two backers, who had challenged some other young man through a sporting paper, rowed in a boat behind him, and yelled and swore directions, advice, warnings, and encouragement at him, and in their excitement drank up all the whiskey that had been intended for him.

The last of these quotations is from one of Mr. Davis's stories, and the first is from some news story in the New York *Sun*. It is the same newspaper quality which makes the *Sun* so popular a paper that gives to Mr. Davis's books their vogue, so far as that vogue is due to his manner rather than his matter. Illustrations of this kind abound for any one who is looking for them. The invasion of what, in a sense, is literature by the newspaper style is one of the most noteworthy signs of the day. The education of newspaper reading is doing its work silently and thoroughly. We are all more or less under its influence.

But perhaps the most interesting illustration of this invasion is the changed attitude of the magazine toward the newspaper. Once it was the ambition of the newspaper to be rated as high as the magazine. Now it often seems as if it were the aim of the magazine to be edited like a newspaper. Take an example from mechanical devices. What in newspaper parlance are called "sub-heads"—that is, short, descriptive head-lines over paragraphs in a long article, at regular intervals, to catch the eye and fix the attention—are coming to be used in leading magazines, notably the *Century*. But this applies not only to style of treatment, but to the editorial selection of articles. There are numerous magazines published to-day which are only monthly newspapers. There are others in which the journalistic standard of editing has almost complete control, although there is occasional relief in the appearance of something that is not journalistic. But even the magazines which still retain their old prestige have not escaped the journalistic tendency. We saw a good example of this during and long after the Spanish War. In writing of this invasion of the peaceful province of the magazines by the spirit of war, Mr. Howells says in *Literature* (issue of May 16 last) that "the spirit of war seems to have obsessed our periodical literature, and there seems at present no hope of release from it. The hostilities began just one year ago. In two months they subsided, and peace was practically made between the nations. And still, in this month of May, troops of horrors of all shapes and sizes are writing themselves up or are being written up with tireless activity in the magazines. I have had the curiosity to look over the periodicals for the month to the number of eighteen or twenty, and I have found only four or five which apparently made no mention of the war; but, no doubt, if I had looked more carefully, I should

have found some shade of battle in these. In thirteen issues an inexhaustive search developed thirty-three papers relating to the recent hostilities, of a variety ranging from sober history and criticism, through the personal narratives of the combatants, high and low, down to the biographies of witnesses of the fighting." In other words, the magazines for May, 1899, were simply an echo of what had been printed in the newspapers for a twelvemonth previous. This is a striking illustration of what is meant by saying that the modern magazine in its editing aims to be a kind of newspaper.

Another evidence that our magazines and other literary publications have lost standing as literary publications is to be found in the passing of the book review. I simply throw this out as an aside. Any one who is interested in it will find in the *Atlantic Monthly* for September an exhaustive discussion of the book review, past and present, by J. S. Tunison. His conclusion is that whereas in days gone by book reviews did largely influence the selling of a book, people who were interested in books going to them as authoritative, and thus starting the vogue of a book if the review were favorable, it is very different to-day. Mr. Tunison believes that seldom, if ever, does a book review start the sale of a book. Some one likes it and tells somebody else, and that somebody else passes the favorable comment on, until, lo and behold! the book has leaped into popularity. While there is a good deal in this view, it may be urged, on the other hand, that a book notice does occasionally start a successful career, especially if that notice has behind it an authoritative name. One recalls, for example, Mr. Howells's review of "A Country Town," by an unknown Kansas editor, which certainly gave that book great vogue. Whether or not it might not have attained this vogue without Mr. Howells's favorable criticism is another question.

Still another illustration of the cheapening of magazines, though perhaps it can hardly be called journalistic, because newspapers have not been, until recently, illustrated (though, in point of fact, it is the same in character as not a little journalism), is the editing of the magazine, rather for their pictures, than for their text. Nowadays it is often the text which is illustrative rather than the illustrations, which recalls a personal experience. Many years ago, when I was editor of a Western paper, the advance agent of a theatrical company came in, and introduced himself by saying that

he, too, was a literary man,—something that was, in its way, flattering. Considering the nature of my work. I asked him what had been his literary performances, and he said that he had been a writer for a popular magazine of the cheaper sort in New York. In those days that magazine, so he explained, used to keep the plates of its pictures, and by the time it thought its readers had forgotten them used them over again. What he did every morning was to receive the plate of a picture, perhaps a girl being carried off by Indians with a hero in pursuit, or perhaps a girl stepping out of a row-boat with a young man assisting her, and then write a story to the picture. It strikes me that, in principle, this is the way that a good many of our modern magazines are edited.

But to come back to the subject immediately in hand. As I have said, there was once a time when a newspaper prided itself on being a magazine. This was about the time, twenty years ago, when so conservative a paper as the New York *Tribune* began the regular publication of a Sunday edition. Following the Franco-Prussian war and the free use of the cable for the daily transmission of news (one immediate result of that war), salient features were incorporated into the Sunday editions of newspapers, modelled after what had previously been conspicuous as magazine features, such as really valuable letters from European points, and the printing of a cable letter summarizing important news and giving valuable comments, as in the case of Mr. Smalley's letter to the Sunday *Tribune*. From that time and for some years after, as newspaper readers of my own age will remember, the Sunday editions of the metropolitan newspapers justified themselves for alleged Sabbath-breaking by the character of the special articles which they printed,—articles that were often literary, sometimes written by men of acknowledged standing in the world of letters, and dealing, for the most part, with matters of serious significance or of more than trivial interest. What the Sunday edition of the best newspapers was then, magazines have, to a large extent, become to-day. The magazine and the newspaper have changed places, the newspaper no longer caring to claim that it is a magazine, the magazines being, in fact, very similar in character to what the Sunday newspaper had been. Some magazines of prominence made a bold and open bid for popular support by avowedly adopting a newspaper policy in editing. This was true of the *North American*

Review under the late Allen Thorndike Rice, which, after it passed under his editorial control in 1878, printed in insignificant small type the classical Latin motto which had long been a sign of its character: "Tros Tyriusque mihi nullo discrimin agetur,"—an amusingly frank confession of the change that had been wrought in its character. A good example of that change is to be found in the dispute on the truth of Christianity, in which Mr. Rice set the late Jeremiah S. Black of Pennsylvania, an able lawyer who was Buchanan's Attorney-General, but who had never been supposed to be an authority on religious controversy, to answer Colonel Robert G. Ingersoll. The success which attended the editorial departure of the *North American Review* under Mr. Rice, or which appeared to,—for the amount of money that was actually made by the change is a matter of popular dispute, and I have no knowledge of the fact,—led other publications to follow his lead, perhaps one may say as far as they dared. It used to be said that John L. Sullivan could have appeared at any time as a magazine contributor on "What I know bout Prize-fighting," had he not been too prosperous in those days to care for a little matter like literary fame.

I have made a somewhat elaborate investigation of the change, which has passed over two of our prominent magazines. It seemed hardly worth while to examine the minor magazines, and the *Atlantic Monthly* has retained so consistently its literary traditions that it seems fair to make it an honorable exception. I may say by way of preface that, in the evolution of the book, the newspaper, and the magazine, all three have come to fill a somewhat different position from what they once did, so that all the changes of magazine editing cannot, in fairness, be attributed to the journalistic tendency. In conversation, Mr. Alden, the accomplished editor of *Harper's Monthly*, pointed out that many articles that once appeared in the magazines are now confined to books, because, owing to increased facilities in the matter of securing books, the people who once looked for them in the magazines now obtain them in the book. "The book will find its own constituency," said Mr. Alden; and he instanced the fact that a noticeably large proportion of the first readers of his own book, "God in his World," hailed from beyond the Rockies, although the book was published in New York. The extended market for books, practically coextensive with the mails, and the vast increase of libraries and of library facilities,—the travelling library in some sections

reaches the smallest village within the radius of a large city,—have made book readers out of those who in the past were of necessity magazine readers. What is more properly of a permanent than of a contemporaneous interest thus finds in the book its natural form of publication. The need for its admission to magazine pages no longer exists. In a somewhat similar way, Mr. Alden claims that the magazine has largely surrendered to the newspaper a certain class of articles which, in the development of newspaper facilities, fell to it naturally. One may cite in conspicuous example the article simply descriptive, the old "travel article." I pass on this explanation of the magazine's changed standard as Mr. Alden detailed it to me, and as I myself afterward elaborated it in an article contributed to *Literature*, because it may seem to others more satisfactory than on reflection it has seemed to me. To test my own theory of the invasion of magazine editing by the journalistic standard, I made a comparison of *Harper's* as it was twenty-five years ago—just before the Sunday newspaper with its magazine features obtained its present vogue—with *Harper's* as it is to-day. The result goes largely to bear out Mr. Alden's claim, at least so far as his own magazine is concerned. I made a similar examination in the case of *Scribner's*, the old *Scribner's* being, it will be remembered, the parent of both the *Century Magazine* and the modern *Scribner's*. I took both *Harper's* and *Scribner's* for the year 1872-73, which, so far as I recall, was a year that was fairly representative, sufficiently removed, on the one hand, from the Franco-German War and, on the other, from the special interest which centred in the period just following, the "hard times" and the election of 1876. I went through these magazines carefully, selecting more than half the articles, including those which seemed adapted for purposes of classification; but I left out the poems, the departments, and the minor articles, which it seemed hardly worth while to include. I divided these selected articles into articles of travel; scientific (including sociological), artistic, or literary; short stories; and journalistic articles. There were about the same number of serial stories then as now, so that I did not include them in the comparison. In the case of *Harper's* 1872-73 I found that 38 per cent. of my selected articles were travel articles; 34 per cent. scientific, literary, etc.; 20 per cent. short stories; and 2 per cent. journalistic. Coming to *Harper's* in the year 1897, a year also in which there was no

specially exciting topic, I found that 6 per cent. of my selected articles were travel articles, a falling off of 32 per cent., which bears out one point made by Mr. Alden; 40 per cent. were scientific, literary, etc., a gain of 6 per cent.,—principally in scientific articles; 40 per cent. short stories, a gain of 20 per cent.; and 10 per cent. journalistic, a gain of 8 per cent.

In *Scribner's* for 1872 I found that 29 per cent. were travel articles; 32 per cent. scientific, literary, etc.; 25 per cent. short stories; and 10 per cent. journalistic. Making comparison with the *Century*, I found that 15 per cent. of the volume for 1897 were travel articles, a loss of 14 per cent.; 40 per cent. were scientific and literary, a gain of 8 per cent., mostly in literary articles; 23 per cent. only were short stories, a loss of 2 per cent.; and 20 per cent. were journalistic, a gain of 9 per cent. Comparing *Scribner's* of 1872 with *Scribner's* of 1897, I found that 7½ per cent. were travel articles, a loss of about 22 per cent.; 33 per cent. were literary and scientific, a gain of 1 per cent. (in this case, too, mostly in the direction of literary articles); 35 per cent. were short stories, a gain of 10 per cent.; and 20 per cent. were journalistic, a gain of 9 per cent. Speaking broadly, then, of the modern representative magazine as compared with the representative magazine of twenty-five years ago, the thing most noticeable is the disappearance of the travel article, the gain in short stories, but, especially, the gain in journalistic articles. It is somewhat difficult to define what I call a journalistic article; but I have chosen the definition which I fancy Mr. Howells would give, an article which he has called "contemporanic." In other words, I mean by this an article chosen and treated because it is of immediate contemporaneous interest rather than because it is of any special interest in itself; that is, the sort of article that is printed in a newspaper for purposes of general reading. I instance as examples of such articles in *Harper's* Richard Harding Davis's account of "Mr. McKinley's Inauguration," Joseph Pennell's account of "Around London by Bicycle," and Poultny Bigelow's "White Man's Africa." In *Scribner's* I would instance such an article as the series on "How Great Businesses are conducted,"—for example, the department store,—or Mrs. Moody's articles on "The Unquiet Sex," a discussion of woman's place in modern life. In the *Century* I would choose such articles as "A Suburban Country Place," or "Notes of Tennessee and its Centennial," or Ambassador

Bayard's article on "Queen Victoria." I have tabulated the results for the possible interest of any who care to see the analysis *in extenso*:—

TABULATED RESULTS OF INSPECTION OF MAGAZINE
ARTICLES.

	No. of Articles classified.	Travel.	Scientific and Literary.	Stories.	Serials.	Journalistic.
<i>Harper's, 1872-73 . .</i>	71	31 38%	28 34%	17 20%	3 4%	2 2%
<i>Harper's, 1897 . .</i>	98	6 5½%	43 40%	44 40%	4 3½%	11 10%
<i>Scribner's, 1872 . .</i>	90	26 29%	28 32%	22 23%	3 3½%	10 11%
<i>Century, 1897 . .</i>	133	20 15%	52 40%	31 23%	3 2%	27 20%
<i>Scribner's, 1897 . .</i>	79	6 7¼%	26 33%	28 35%	3 4%	16 20%

Perhaps, after all, the most significant thing about the invasion of the magazine by the journalistic method of editing is not the actual extent, thus shown, to which that invasion has already gone, but rather its indication of what will be its extent in the future. The invasion of the Spanish War was indeed overwhelming, but it has receded. The receding wave, however, will never go back to the point from which it started; and the next wave, developed out of some new subject of general interest, will carry the tendency to a still further mark of permanency. The set of editing in current publications is all in the direction of the newspaper standard,—a sign of the times, showing how completely the newspaper point of view and method of expression are likely to dominate all that is left to us of old-fashioned standards. As a newspaper man, the importance of education by newspaper does not seem to me half so great from the standpoint of demoraliza-

tion through sensationalism as it does from the standpoint of the quiet substitution of standards in so much of the intercourse of life. As I have said, the newspaper is the expression of the tendency of the age. Its present form is an effect: its great circulation is a cause. But, whether we look at it as an effect or as a cause, the problem which it presents is subtle, indicating one of the most serious educational influences confronting modern life. It is because everybody reads the newspaper that everybody is being unconsciously educated by it in point of view and form of expression. Yet this fact is one which, in current discussions of newspaper influence, has been largely ignored. If what I have said turns the thoughts of others in the direction which my own have taken, stimulated largely through a personal professional interest, it may result in an exhaustive study of a subject which is full of sociological significance where mine has been largely a surface study.

3. TWENTIETH-CENTURY EDUCATION.

BY ARTHUR BURNHAM WOODFORD, PH.D., OF NEW HAVEN, CT.

[Read Tuesday morning, September 5.]

One does not need the gift of prophecy to assure him that life in the twentieth century will be different from that with which we are familiar. Just as the Elizabethan period is unlike the Stuart period, so America in the next century will be unlike America in this century, or, as the Boston of the forties is not the Boston of to-day, so our grandchildren in their turn will have acquired habits and customs contrasting more or less with our own. Every century may even be said to wear a dress of its own. To appreciate this, one needs but to recall the velvet knee-breeches and silver-buckled shoes of a bygone age.

In his charming book on Lowell and his Friends, Mr. Edward Everett Hale has insisted that it is impossible for us to understand the times that are past. Our President, in his address last night, maintained that it was impossible for us to feel the spirit of the century that is coming. Both may be right; but of one thing we may be certain. Reasoning from what has been to that which shall be, we may safely conclude that life will be more complex in the twentieth century than it is now. It will be more complex politically, and it will be more complex socially. This is the only point regarding the life of the next century which it is essential to my argument to establish. For, if industrial and social interests are more varied and more various, their co-ordination will be correspondingly difficult; and education will be proportionately more important.

I would therefore like to lay down as my first proposition that teaching will be recognized as among the learned professions. Law, medicine, and theology are to-day regarded as professions: teaching is not. If we exclude college professors and have in mind school-teachers only, I think you will see that there is no such recognition paid them as there is to the other "learned" professions. A school-teacher is a young woman who has matrimonial ambitions, and will shortly leave that field of work,—she

is simply tiding over the interim. Or she is an elderly woman who has dreams of what might have been. She has acquired, of course, some experience as a teacher; but she has learned the art of teaching under the most disadvantageous circumstances for study. If the teacher is a young man, he is probably tiding over a year or two between a professional school or a special course of studies in a technical school and actually beginning his work in life. If an elderly man, he has probably remained in the service because he has a political pull, and not mainly because he is an efficient teacher. Not all teachers, it is true, come under this list; but I may safely say that the vast majority do, and that they do not themselves regard their work, nor does the public recognize it, as a vocation which is on the level of those we are in the habit of calling learned professions. The reason is simply, it seems to me, that we recognize the social significance of these other professions. Their peculiar type is due to that fact. But I fully believe that in the twentieth century teaching will have the same recognition. Because of the complexity of life, people will realize the necessity of education. Because of its social significance, they will come to realize that it is profitable to put the very best education possible before the growing mind.

It is the social side of education that will be made prominent in the twentieth century. Social science and education are related to one another as art to science or as childhood and youth to manhood and old age. If it be doubted, as was suggested, that the primary and secondary schools do not fit, but actually unfit children for the life they must lead in society, it is a severe criticism upon our schools. I am confident that it is one that will not be made of the school of the next generation. Education is closely connected with human progress. We are coming to understand that there are certain social laws which we must obey; and, as we study the forces at work, we shall learn how we can exercise our own power to change the direction of these forces to a higher social level. I would therefore lay down, as a second proposition, that higher ideals of education will characterize twentieth-century education. The mottoes around the school-room will not refer to individual success, but to social service,— not what can a bright boy do in mathematics to get the first prize, which most boys do not deserve, but of what use can a boy, a young man, or a young woman, be to society, how best prepare them for their

work in society? Competition will give place to combination and co-ordination. Self will not be forgotten. We have been struggling for existence altogether too long for that. We shall simply begin to realize more and more that self-culture depends upon and is related to the helpful progress of all, that the highest individual success is measured by social service.

The present ideal of the secondary school is to pass the college examination. This is the ideal of the teacher and the scholar in nine hundred and ninety-nine out of every thousand instances. I may be wrong in saying that colleges and universities exist for the select few. It is a disputed point. But the few who do actually go to college go frequently to obtain a certain amount of general culture necessary to fit them for the set in which they will move in life. The knowledge they acquire is purely mechanical. They learn the three R's in the primary schools, and Greek, Latin, and mathematics in college. In some colleges, I mean, of course not all colleges, and not all scholars; but, in the main, they are crammed with information. The young girl of fourteen or fifteen years of age goes home every day with an armful of books which she can hardly carry; and, if a boy wants to get into Yale, he has to pass twenty different examinations.

Education, like life, consisteth not in the abundance of things which a man or woman hath in the brain. Education is knowing how to live. If I may quote Mr. Charles Dudley Warner's recent study of American life, "That Fortune,"—he is explaining why Celia did not stick to teaching in that woman's college,—"I found out," says the young woman, "that not one of my pupils knew how to boil potatoes. . . . Don't think it is just a matter of cooking. It is knowing how, generally, to make the most of yourself and of your opportunities, and have a nice world to live in,—a thrifty, self-helpful, disciplined world. Is education giving us this?" I think not now. But, in the twentieth century, I think it will. First of all, we shall have a very different educational plant. Education is a commencing, not an ending; a beginning and a preparation, not a finishing. The building, the room, and the things in the room will therefore be designed to aid, not hinder development; to uplift the scholars physically, intellectually, and morally. Picture to yourself an attractive residence, artistically beautiful without,—commodious, comfortable, and pleasing within. How many school buildings do you know that will

answer that description? Even when you find one artistically beautiful without, with the long low lines between columns gracefully artistic, if you enter the building, what do you behold inside? Benches that are more uncomfortable than these we are enduring here, desks that are awkward to get at and not helpful in the work, and the walls pretty uniformly lined with blackboards which nobody uses.

The best schools and the best teachers, it seems to me, are those which help our boys and girls to realize the highest ideal of manhood and womanhood. "The great central fact in human life, in your life and mine, is the getting into a conscious, vital realization of our oneness with this Infinite Life and the opening of ourselves fully to this divine inflow."* Do our schools and colleges offer opportunity for that realization of power in the individual, for that activity of the potential energy, of which every boy or girl is so full? Pretty generally, we may say, they do not. The Germans have a saying that "Alle gute Dinge sind drei." I would ask if there is anything in human progress other than these three,—strength, beauty, and wisdom. This idea has been typified in a group that, I think, is used for a patent medicine device,—the group of a strong man, a beautiful woman, and a well-educated child. It is at least a high ideal. Our progress in education will consist in a conscious realization of these elements of human progress.

Of course, this involves a radical departure from some of the methods in vogue in our educational factories. Indeed, the school often looks more like an old-fashioned factory. It is not, in the main, up to the level of our new, attractive, commodious, healthful factories. The machine-made product will be displaced, and the mechanical ram-it-in, cram-it-in, any-way-to-get-it-in system of education will give way to the other,—that of developing the powers of the individual for social purposes.

If you ask, Who will pay for it? I reply, The State. In the twentieth century there will be unquestionably greater wealth than at present. And I think we may safely say that wealth, in its productive forms, will be more concentrated. We shall grow wealthy, but I think financiers and economists will agree that there will be some fundamental principles adopted in levying taxes. We shall abandon the harum-scarum method of taxing everything as often

* "In Tune with the Infinite." By Ralph Waldo Trine.

as possible, under which everybody has a horror of taxes. People who are absolutely honest in every other way will lie about the circulation of a newspaper and their personal property, you know. But, in the twentieth century, people will at least begin to realize that taxes are among their best investments, particularly school taxes.

Again, I submit also that in the place of our present domineering dictionary, who sits in the chair,—I mean the typical teacher, who is supposed to know everything and answer all the questions fifty or sixty children may ask in the course of a day, but who does it in a domineering manner, a sort of embalmed body of knowledge, who calmly sits there like an encyclopædia,—this powerful pedant will give place to a thoughtful man or a loving woman, or both,—for I am not quite sure that there will not be two teachers in every room, and small rooms at that; and these people will help students learn the good things of life,—not hear them recite from books things of which they themselves, the teachers, do not know anything, or at least but little. What a teacher is will be far more important than what he or she knows.

We are at present worshipping at the shrine of exact knowledge, and our mistress is very much afraid that we shall forget something that we have some time learned. The twenty examinations I have referred to as required to enter the Academic Department of Yale is a case in point. I have been trying this summer to get a young girl ready for "South Hadley,"—not doing all the work, because she wants both Greek and Latin,—four books of Cæsar, some of Cicero, and some of Virgil; wants American and English history and literature, arithmetic, algebra, geometry, physics, botany, and— Poor girl! I am sorry for her.

It is again a trite remark to say that we live in an age of social transition. If society is, as many have insisted, something that is growing, we must keep changing. Life is change; and Horace Mann is reported to have said, that where it was a question of growing, one former was worth twenty reformers. I am not preaching a reform of education, consequently; but a system by which to form the character and habits of thought. What habit of thought am I tending to create in this child? is Herbert Spencer's motto for a teacher. Instead of this, instead of forgetting the things which are behind, and pressing forward, we hold on to this list of things that we have learned from childhood, and

take as the motto of our system of education, "Let nothing go." It is safe to predict different educational values in the twentieth century.

What should be taught is and must be a matter of individual opinion, a matter of individual choice and local concern. We can lay down certain general rules; but there is no really right road, no one method that is uniformly the best. We can say that young children shall be taught to see things in nature, and boys and girls to understand relationships both in nature and human nature; but what, in a particular school, will be the best method of making children see things must, I say, be a matter of local concern and of personal choice. You cannot apply the same method in a school in Rivington Street that you can in a country school in the Berkshires. You cannot apply the same rule with a man as with a woman. But it does not make much difference, it cannot make much difference, what the teacher teaches. What the teacher is interests us most,—not what she will use as a means for helping children to see things and understand relationships. As the child grows older, it can be taught to do things. I do not mean simply to work in wood and metal, as in our training schools; nor to cook and sew, as girls are taught; nor yet to be able to read and write and cipher. I would like to have it an elementary principle of education that children should know how to read. They do not now, in the main. I happen to know of one public school in New York, out of a great many, where the children of eight, ten, or twelve know how to read; that is, they understand an idea, and know how to convey that idea to you. Reading, writing, and ciphering are a means to an end. Drawing and power of expression are a means of communication. They are evidences of real education.

In a general way we may say:—

- (1) Small children should be taught to see things accurately.
- (2) Young boys and girls may be taught to connect cause and effect, to understand relationships in nature and in human nature; but it is more important that
- (3) Everybody should at all times be learning how to do things, with both the hand and the voice.

It is not enough to be able to read, write, and cipher; nor yet to work in wood, iron, and leather, or to cook and sew. A liberally educated person is, or at least will be, one who can either draw a

picture of what he or she has seen or can give a vivid description of the same, as circumstances may require. Power of expression, with hand or voice, is the most important acquisition in a democracy; for self-control goes with it.

It need hardly be said that education will be democratic in the twentieth century. How can it be made so? Let me read again from this little book, "In Tune with the Infinite," the story of the friend who had a beautiful lotus pond, but who was absent for a year, and rented his estate to a man who had no time for anything that did not bring him direct "practical" returns. "The gate connecting the reservoir was shut down, and no longer had the crystal mountain water the opportunity to feed and overflow it. The notice of our friend, 'All are welcome to the Lotus Pond,' was removed; and no longer were the gay companies of children and of men and women seen at the pond. A great change came over everything. . . . The difference was caused by the shutting of the gate to the pond, thus preventing the water from the reservoir in the hills, which was the source of its life, from entering it.

"In this do we not see a complete parallel, so far as human life is concerned? In the degree that we recognize our oneness, our connection with the Infinite Spirit which is the life of all, and in the degree that we open ourselves to this divine inflow, do we come into harmony with the highest, the most powerful, and the most beautiful everywhere."

In general, I believe that it is usually the study of literature which will offer the simplest means of accomplishing the end we have in view. "Literature," says Woodrow Wilson, "is the open door to nature. Literature will keep us pure and keep us strong." What literature? The great literature of all nations. In what form? The best form in which the individual teacher can give it to the school. I have in mind the story of a kindergartner who had been reading Homer's Iliad. As a true kindergartner, she was working out some means of using that story of the Iliad for school purposes; and she began by telling them the story of Hector and Achilles and the rest. Suddenly one of the little ones piped up, "Let's play Homer!" "How can we?" "That table can be the great horse, and we will get inside and be the soldiers; and somebody can push us." And day after day they went through that great story of Homer's. The most interesting part was the assignment of characters. It was easy to find boys

and girls to take the characters of Ulysses and Achilles and the beautiful Helen, but no one wanted to take the part of Paris; and so, as a device, they dressed up the old tongs that stood in the corner, and every day, when Paris had to appear and perform his part, the tongs were marched into the room in state to serve the purpose. The children had immediately acquired an estimate of human character in the story told in the Iliad. Boys of twelve and fourteen should, every single one of them, have an introduction to Homer. It will not do any harm to read the book, a great many other books, many times over, in many ways. Literature is the open door to nature and to ourselves. It is the study of art and literature that will keep constantly before us these ideals of the strong man, the beautiful woman, and those messengers from heaven, the little children.

I have not said all that I intended to say nor yet in the manner in which I intended to say it. I have tried to preach what might perhaps be called a trinitarian doctrine, and to argue that the education of the next century will be scientifically adapted to the needs of the time. I mean that people will systematically work out educational problems, and that working these out will be one of the new professions, with new ideals of self and home, of school, of politics, of industry, new teachers and different kinds of school buildings, different means adapted to the needs of the times. I hope I have preached the doctrine that it is our duty to do all in our power in any way, shape, or manner, to push forward so far as we may this educational movement, and bring about the realization of these ideals of the twentieth century.

4. THE PRESENT PROBLEM OF NEGRO EDUCATION.

BY W. H. BALDWIN, JR., PRESIDENT OF THE LONG ISLAND RAILROAD.

[Read Tuesday morning, September 5.]

Your Association has had presented to it during the past few years several papers on the general question of negro education. I do not feel, however, that any apology should be necessary for the repeated discussion of a subject which is assuming at the present moment so much importance. If one new idea can be suggested or if new interest can be awakened by another statement of the subject, it is sufficient warrant for you to continue to discuss this negro question. It is my part to-day to present the need of education for the negro, and particularly to state my point of view of the kind of education that is necessary for that race. It will be necessary, in the limited time at command, to confine these remarks to the question of industrial education for the negro only, and not to attempt to refer at any length to the many other educational problems in the South, all of which bear an important relation to this particular subject. The education of one class without a corresponding opportunity for another class is, of course, out of the question ; but the relation of these other problems to the negro problem would demand all of the time allotted to me.

It may be proper for me to say that my observations are those of a New Englander, with all the inherited tendencies and sympathies of that people, supplemented by three years of active and intimate relations with the whites and blacks in the South, and, all told, about six years' service as a trustee of the Tuskegee Institute.

Before stating the present educational needs of the negro, let us look for a moment at his history. Only a few generations back we see the negro in Africa, in various stages of barbarism. He is transported involuntarily to this country. For a hundred years or more he and his descendants lived with us as slaves. In the

North and in the South they were slaves. Changed trade conditions removed his bonds in the North, and left him as a slave in the Southern States. During this period of bondage the negro was forced to do the manual labor and live the part of civilized man. He was taught all the trades. The conditions of plantation life in the South demanded the education of the negro in various arts and trades, and he became the artisan of the South. Each plantation had its own wheelwright and blacksmith and carpenter and shoemaker. Each plantation was a small industrial school; but first, and most important of all, the negro was taught to work and was made to work. How well he learned these duties is shown by his history during the war. He tilled the field, performed all the skilled labor needed, and guarded the home of the master.

The War is over: the negro has equal rights under the Constitution. The slave is free,—free now to realize his dream in slavery; free to sleep or to wake, to eat or go hungry, to work or to loaf, to *vote*. Freedom to him meant freedom from work. On the other hand, the Southern white, who had looked upon hard labor as fit only for slaves, interpreted their freedom as his slavery.

As a child who during his period of infancy is kept under careful restraint, and then is turned suddenly out into the world, is inclined to lack power of self-control, "craves the superficial, the ornamental, the signs of progress rather than the reality," so the negro, when his shackles were loosed, aimed to enjoy to the fullest extent freedom from his point of view. The taste was sweet, the license unbounded. He no longer worked beyond the needs of a bare living. He had no outside control, no guidance, no aim except that of existence by any means. The industrial education on the plantation had stopped. The negro artisan gradually disappeared: the negro politician took his place.

The days of reconstruction were dark for all. Their sting has not yet gone. Then appeared from the North a new army,—an army of white teachers, armed with the spelling-book and the Bible; and from their attack there were many casualties on both sides, the Southern whites as well as the blacks. For, although the spelling-book and the Bible were necessary for the proper education of the negro race, yet, with a false point of view, the Northern white teacher educated the negro to hope that through the books he might, like the white man, learn to live from the

fruits of a literary education. How false that theory was, thirty long years of experience has proved. That was not their opportunity. Their opportunity was to be taught the dignity of manual labor and how to perform it. We began at the wrong end. Instead of educating the negro in the lines which were open to him, he was educated out of his natural environment and the opportunities which lay immediately about him.

A bright star shone during this period of conflicting interests. With great wisdom and foresight General Armstrong saw the need of practical education for the negro; and Hampton was born and grew. General Hampton's sacrifice was the opportunity of others, and Hampton still lives. From Hampton came a Moses, and Tuskegee was born.

What is all this problem,—this negro problem,—this question to which some Southern white men answer: "You leave it to us. We will settle it." And the Northern white man answers, "It is a very serious problem," and then dismisses it from his mind as being too large a question to solve. I fear that the Southerner's answer means, "We will keep the negro where he belongs," meaning where he is. And the Northerner loses his interest because the question does not concern his daily life. But I deny that there is longer any problem to be solved. I maintain that the solution has been found, and there remains only the question of means to carry it out.

When the press of the South and of the North, when the better whites of the South, and the intelligent negroes of the North and South, and the whites in the North agree almost unanimously that industrial education is the solution, need we seek further? For industrial education carries with it as a corollary literary and moral teaching and practice. Labor induces morality. Did we hear of rape in times of slavery? Was the entire absence of such crimes due to fear on the part of the negro slave? Was it fear of pursuit with hounds, of hanging, of death, that restrained the negro? Does fear of death restrain him now? Have we ever heard of a case where a Tuskegee graduate or a negro who owns his own land, or who works industriously, has been found guilty of that crime?

By what means has this problem been solved? Thirty years ago General Armstrong's inspiration planted the seed at Hampton. The result of his work the whole world knows, but it remained for

a negro to transplant his work to the black belt of the South. Booker T. Washington was his interpreter, the Moses; Tuskegee, his creation, his life, and the hope of the race.

Come with me a moment, and let us feel the atmosphere at Tuskegee. A thousand boys and girls, from fifteen to twenty years of age; a corps of teachers, all negroes. Here is a building for the trades. The blacksmiths are at the forges, the tinsmiths at their benches, carpenters and wheelwrights in the carpenter shops, the shoemakers with their lasts, the sawyers in the mills. Below we see the brickmakers at the kilns, the farmers in the fields sowing the crops or reaping the harvests or caring for the herds or working in the dairies. Here is the Agricultural Building, where scientific farming is taught, not only for the benefit of the negro student, but for the benefit of the white farmer as well.

The girls, too, are at their work, making dresses or hats or clothes for the students, or laundering, or learning to cook or serve. Forty buildings stand about, planned and built by the boys. And out of it all comes a modest air of hope, of ambition, and of zeal to work with the hands. They are taught to have simple tastes and few wants,—wants that can be satisfied. The Tuskegee student is taught how to work with the hands, and he has to work hard. He is taught the dignity of manual labor, and with this industrial teaching the students are taught from the books in all studies suitable for their needs. But the literary courses are secondary to the principal motive, the industrial feature, and the student may not learn from books unless he first earns the right to do so by his manual work in some one of the various departments of the institution.

In brief, the aim of Tuskegee is to teach the negro boy or girl to be moral and religious, and how to make a living; to educate them in those lines in which the opportunity to make a living is open. They are educated for their natural environment, and not educated out of it. The boy or girl who comes from the log cabin can go back to it properly equipped to improve the conditions of the home, to farm more intelligently, to keep the house cleaner, to cook better, to dress better, to be an influence for good in the community or, perchance, to start another school,—a small Tuskegee,—where the children may receive some of the indirect benefits of the education received at Tuskegee. We know that, as the students return to their homes, they carry away with them

this Tuskegee spirit, and that they treasure it and share it with their neighbors as a precious gift. Thousands of boys and girls from every State in the Far South look forward to an education at Tuskegee School, and each year more are turned away than are actually received.

As a premise to our conclusions, we shall discuss the various problems arising by reason of the relation of the living together of two races in more or less equal numbers ; and I shall refer particularly to those more important questions which have a direct bearing upon our problem.

THE SOCIAL QUESTION.

Whoever lives in the South for a year or more is inclined to reach the same conclusion as the intelligent Southerner on the social question. The educated, intelligent negro recognizes the same fact, and no more treats as a social equal the ordinary, uneducated negro than the educated Northern white man recognizes the uneducated, shiftless white man. Social recognition of the negro by the white is a simple impossibility, and is entirely dismissed from the minds of the white and by the intelligent negroes. There is no need of social recognition. It is largely demanded by sentimental theorists, who would be the last to grant such recognition if they were to live with the problem. The ordinary negro would have as much difficulty in obtaining a room and board in a hotel in Boston as he would have in the city of Atlanta. Social recognition for this generation, at least, is denied,—properly so, naturally so. Any attempt to force it merely complicates the situation and injures the cause of the black man.

CIVIL RIGHTS.

When the negro was freed under the Constitution, he was given equal rights with white citizens: suffrage was thrust upon him. This was an injustice to him as well as to the white man. He was not ready for it, and he could not use it intelligently. From this source alone the difficulties of the problem have been infinitely increased. How could we hope that it would be successful? After thirty-five years we find the negro practically disfranchised in many of the Southern States, and he should be if he is not properly qualified to cast a vote ; but his qualifications should be

determined in exactly the same manner as the qualifications of the white man, and to this the negro has no objection. The legal right of the negro to vote has been the only serious cause of hostility on the part of the Southern white man. The negro is the friend of the white man in all matters except politics, but in politics he has seldom joined forces with his white neighbors for the common interest of the community in which he lives. If the time comes when the negro is sufficiently educated, sufficiently intelligent to deal with political questions purely as questions relating to the community in which he lives, and without regard to sentimental party lines, he will receive more reasonable consideration from the whites in the South. Now is the time when he should recognize this opportunity.

Outside of political rights, which the negro cannot be considered to have in the South, his civil rights are recognized. The negro is recognized exactly in proportion to his economic value; no longer his value as a slave, but his value as a producer. The white banker will receive cordially the black man if he has money to deposit: the white grocer will give credit and sell, as cheaply as to a white man, to any negro who owns his land and has a reputation of honesty and worth. In short, the negro is fairly recognized to-day for what he is worth to the community.

DEPORTATION.

Some negro leaders and some theorists have been driven to the conclusion, by reason of their inability to solve the problem of educating the negro to live where he is, that he must be deported to another country, or that he must be settled in communities in other States by means of colonization. The deportation to Africa is, for instance, urged by many writers, one of whom recently said that, if he were worth \$50,000,000, he would use it to move the negroes from the United States to Africa. I know one negro who would not leave this country for that amount of money, and therefore I do not see how this gentleman's charitable suggestion could be made successful; for all must be moved, or none, and I take it that they cannot be moved without their consent. A partial movement would only create an opportunity for a birth-rate which would increase their numbers quite as rapidly as transportation facilities could remove them.

THE NEGRO AS A LABORER AND AN ARTISAN.

The potential economic value of the negro population, properly educated, is infinite and incalculable. In the negro is the opportunity of the South. Time has proved that he is best fitted to perform the heavy labor in the Southern States. "The negro and the mule is the only combination so far to grow cotton." The South needs him, and cannot spare him; but the South needs him educated to be a suitable citizen. Properly directed, he is the best possible laborer to meet the climatic conditions of the South. He will willingly fill the more menial positions and do the heavy work, at less wages, than the American white man or any foreign race which has yet come to our shores. This will permit the Southern white laborer to perform the more expert labor, and to leave the fields, the mines, and the simpler trades for the negro. Here are eight millions of blacks scattered throughout the Southern States. If it were said that a six-foot stratum of coal lay under all the States in the South, how infinitely rich we should consider that section of our country, and how great its possibilities! and yet here is this great black stratum of human beings, with human intelligence, who can be directed to produce infinite wealth for the South. But our friends say, Send them away: they are not wanted.

THE MORAL TRAINING.

The work of the Church in the South has been great during the last three decades, although the result in some respects has been crude. In recent years the colored church has improved. There are distinctly improved standards among the leading colored men and women in the South; there is an evidence of a much higher moral and religious tone among the educated negroes; yet there is still much immorality, and it is the natural and logical result of assignable causes.

ABUSES OF NEGROES.

There are still outrageous abuses of the negro in some sections of the South, principally where the old spirit prevails that the negro must be taught subjection. I know of cases of a most brutal nature where bodies of negro laborers have been seriously maltreated without cause, and simply that the whites might show

their mastery. Such practices are most common in the Gulf States. The greatest abuse of all to-day, however, is the lynching of the black man for various alleged causes. Lynching, however, indicates progress. No progress is made without friction. There is certainly no possible justification for lynching in this country to-day; but, when we realize all the surrounding conditions in the South, we must appreciate that there is often strong provocation for these lynchings. In order to prevent them in the future, however, there seem to be only two methods of relief:—

First.—In case of crime, trial and punishment for the guilty must be more speedy.

Second.—There must be some form of outside restraint which will be more effective; *e.g.*, a law providing for the payment of a suitable sum of money to the family or relatives of any person who is killed without due process of law. This plan is advocated by many Southerners to-day, and is the law in South Carolina. At times it seems as though similar laws would be passed by many of the States. But the South, as a whole, is not ready to do this. Conditions may have to become much worse before they can be better. The immediate cause is the dense ignorance of so many of the whites. Educating and civilizing influences are the only means which can be used to bring about the desired results.

A new form of slavery exists by force of natural conditions in many sections of the South. The iron-clad crop-lien mortgage of the South has produced this new slavery. The negro, ignorant and unable to give any security, must necessarily obtain credit in order to rent a farm to produce a crop. The lender must charge a high rate of interest because the risk is large, and so the mortgage which he gives to the lender is a mortgage upon everything except his soul. His advances from the store for food on which to live, and the high rate of interest which he cannot pay, gradually reduce him to a condition from which there is no hope of escape. It produces in him a hope only to exist, and takes away all hope of progress. This is a pathetic condition, which is natural from the situation in which he is placed, and is impossible of immediate solution.

Matters are complicated further by a serious cause,—the frying-pan,—which renders “it too easy to make a (poor) living.” A high degree of intelligence cannot be attained so long as that article is the only kitchen utensil.

Now that we have looked at various phases of the problem in the South, we should suggest certain principles to follow; and first should be given such suggestions to the negro as the teachings of our modern schools for the negro represent. I would say to him, "Face the music," avoid social questions, leave politics alone, continue to be patient, live moral lives, live simply, learn to work and to work intelligently, learn to work faithfully, learn to work hard, learn that any work, however menial, if well done, is dignified; learn that the world will give full credit for labor and success, even though your skin is black; learn that it is a mistake to be educated out of your necessary environment; know that it is a crime for any teacher, white or black, to educate the negro for positions which are not open to him; know that the greatest opportunity for a successful life lies in the Southland where you were born, where the people know you and need you, and will treat you far better than in any other section of the country. Your labor is needed there, and you have the opportunity *now* of performing the labor for all the principal trades as well as for agriculture. But you must hasten, or the foreigner will drive you out of the trades, and take up the lands which you should own. Buy land,—no matter how little, buy land! Ten acres intelligently worked will produce more net than one hundred acres poorly worked. Buy land, and with the process of buying it you will work out all your other problems.

The labor organizations of the North will not permit you to join their ranks nor work at their trades. You cannot be even a barber in some sections of the North. "Drop your bucket where you are." The water is sweet, if you will taste it. Learn to do what is most expedient. Do not attempt to force alleged rights. They will come just as rapidly as you are worthy to receive them. On these lines only can results be attained. It may take another generation or two generations before the work is complete; but now we know the way, and conscientious effort will make speedy progress. Such principles as these will meet with most cordial approval and response from the South, and there will be no hostile criticism and nothing put in your way that you cannot overcome if you follow these lines.

To the white man I would say that, with Tuskegee as an example, it is our duty to give renewed activity to that kind of work. It is our duty to strengthen Hampton and Tuskegee and any similar institutions; to concentrate money and effort in their work; to

establish other Tuskegees; to build up a secondary school system under the general control and supervision of Hampton and Tuskegee, that their influence may be far-reaching; to organize a general educational board, by which effective work may be accomplished throughout the South, that funds given to the negro cause may be given through such an organization or to schools approved by them, so that the giver may be sure that his contribution will be used effectively. The North to-day is tired of giving indiscriminately to a multitude of colored schools in the South. Many of our rich men who are charitably disposed, and who want to give largely to the negro cause, demand that any school asking for funds be under good business management, and that effective industrial training shall be given. The mere advertisement or statement that industrial training is given at any school is no longer sufficient inducement to procure funds. The approval of an educational board, properly organized, will be in itself a warrant to those who may contribute that their gifts will be expended properly.

To-day a hundred schools send representatives North to beg. The principal, who is needed at the head of his school to do his work, spends most of his time seeking funds to continue the work. Would not proper co-operation through a board composed of competent men provide a channel through which our friends would prefer to contribute?

Thirty years is a short time to work out such a problem as was presented at the end of the War. The last two years have done more to bring about the truth of the situation than all the years previous since the War. Now is the accepted time to concentrate with an organization that will be recognized by the whole country as a proper channel through which the Negro Industrial Education can be reached successfully. The present problem of negro education is a problem of organization,—of work, not theory.

I sincerely believe that with such an organization there will be no further need for representatives of Southern schools to solicit funds in the North. The North accepts its share of responsibility for the care of the negro; and, with the right organization to direct or advise the proper distribution of funds, the whites will assume the burden of supplying the money. Such an organization, too, may well be recognized by the government; and the government may as well give funds and lands to assist that work as to pay millions to civilize the Philippines. The government has aided our school

at Tuskegee, as well as many other schools, with its lands, and, in a small way, has recognized responsibility to this educational cause. The negro is still a ward of the government, although he is not so recognized by it. Was it not unfair to turn the slaves free, and to provide no means for them by which they might be educated to learn how to live? And does not the public now realize it, and is not public sentiment ready to indorse government assistance, if the proper channel is provided by which such aid can be distributed properly? By the very force of circumstances the present scatteration policy has grown up. It cannot go on longer effectively. We must have concentration and combination of effort.

"It may be safely affirmed that the history of free governments furnishes no page more barren of wisdom, more unfruitful of practical benefits, than that which records what has been attempted for the negro by the general government since 1865" (Curry).

"It cannot be safely left to local settlement, haphazard attempts of individuals, to the impractical ideals of enthusiasts. It is suicidal to neglect, to postpone" (Curry).

In the beginning I said that we would confine ourselves to the question of the industrial education of the negro only. But I cannot leave my subject without urging upon you that the cause of negro education cannot be successful unless the education of the white man is provided for.

The South cannot rise unless the negro rises. Nor can the negro rise unless the white man is educated too. So long as the negro is down, the white man will stay down. Eight million ignorant negroes must be an eternal drag on their white neighbors. And those neighbors, if ignorant, will not permit the negro to prosper unless they too are educated and prosper.

Washington says: "The longer I live, and the more I study the question, the more I am convinced that it is not so much the problem of what you will do with the negro as what the negro will do with you and your civilization. The negro can afford to be wronged. The white man cannot afford to wrong him."

The remarkable work of Dr. Curry in the school work in the South is helping out the problem. His broad point of view of education for both the whites and blacks, his thorough understanding of this whole question, fit him, above all others, to lead in a general organization for Southern Industrial Education.

The civilizing influence of education is the only possible solution of these problems of ignorance,—an education to teach the dignity of manual labor, to teach only those things which will lead to duties that are attainable. This is the work that lies before us. It is high time that we get to work. We have theorized and wondered for thirty years. We know the way. Tuskegee and Hampton have proved it. It is the duty of our whole people to take up the burden. Effective organization to aid in carrying out the principles of Hampton and Tuskegee is the present problem of negro education.

Finally, I hope that I have not left the impression upon your minds that the South should be condemned for any shortcomings or because of the unsatisfactory conditions which exist there, from an educational point of view. After the War was over, the South had a load to carry which was almost too much for any people to bear. There was quite enough of a load from the devastation, poverty, and shock incident to the War, without the additional complications which arose by freeing four million ignorant blacks in their midst. That there should be ignorance and poverty in the South under such conditions was inevitable.

A new generation has grown up since the War. They have taken up the load of rehabilitating the fortunes of the South. General education is increasing; the farmers have learned the need of raising a larger variety of crops; natural beds of phosphate rock have been utilized; the cotton is rapidly being manufactured in the South near the cotton fields; cheap coal and iron ore make it impossible to predict the future of iron and steel manufacture; the growth of transportation facilities and commerce through the constantly growing seaports of the South has been marked. All of these recent economic changes will be of the greatest aid in the solution of the problem, as they will provide a more lucrative field for labor.

To me the future of the South and its people is full of hope. If we presume to help them in their educational problems, we must help them wisely, knowing and appreciating the whole situation. The South welcomes such help as the North gives them through Tuskegee and similar institutions, and will welcome any sincere, intelligent assistance in working out their educational problem; but the South will always resent sentimental suggestions of theorists,—that is human.

At the close of President W. H. Baldwin's address a general discussion ensued in regard to the views presented by the various essayists. This discussion, as stenographically reported, here follows, although somewhat reduced in volume:—

Professor RAYMOND, of Princeton.—The subject, "Twentieth-century Education," and the way it was presented, have interested me greatly. Our country is now passing through a sort of transition state in the development of its educational methods. So far they have been too much, perhaps, in accordance with the thought which is at the bottom of American institutions and character. We have believed that all men are created to a certain extent equal; and we have all been acquainted with numbers who have started in obscurity, with little education, and yet have been able to arrive at eminence. In the old country it would be supposed that such men could not rise without previous educational discipline. Here we know that they can; and, for this reason, we seem inclined to underrate the importance of discipline. This fact is shown in our educational methods. To begin with the kindergarten, much is done in this of great importance; but some things are omitted in it. We could learn from the Oriental schools. If on the street we pass by one of these, we hear the teacher and all the children studying out loud. They are repeating things that have to do with the knowledge that children have to acquire in those countries. The result of this rote method is that one of those Asiatic boys of fourteen or fifteen can sometimes talk half a dozen languages. He has acquired a facility in recalling words which our American boys and girls, as a rule, never acquire. In our schools, how much attention is paid relatively to the cultivation of the memory? For instance, take mathematics. How many of the children know by heart the addition or subtraction table,—can in a moment add eight to seventeen or take nineteen from twenty-four? It would be perfectly easy in the kindergarten, without interfering with what is done there now, to have the children repeat such tables for five or ten minutes a day; and in six months' time they would know them. And notice that only after knowing them are they prepared to be interested in the explanations that are given them of the methods of figuring with a pencil. You might as well expect a child who had never studied music, merely because its methods had been explained, to be interested in reading it. Before explanation, children need drill in the rudiments of a subject; and if the drill is not given them, and they appear to be dull, the fault is usually with the teacher. It is this necessity for drill and discipline that I think is being neglected in America. I know a little about the advantages of drill from personal experience. When I was a boy, only nine years old, I began the study of Latin. The teacher was an Englishman; and his method was to have all the school repeat over and over with him the vocabularies, declensions, and conjugations, and then to question us on them. As a result, most of us knew them by heart. He put me into the old Latin reader; and in two weeks I asked him what was the use of my studying that book, that I had already read it through. So I had, and he put me into Virgil; and I at once began reading it, and read-

ing it intelligently. But it is not only in the beginnings of education—in the kindergarten and the primary school—that our system seems at fault. The whole tendency of our higher education, as in our colleges at present, is toward the supposition that information and explanation, such as can be given by lectures, are the main, if not the only essentials. It is a mistake. If it were true, the university lecture courses in our cities would give as good an education as the university itself. From the beginning to the end of any system that is educational in the best sense, there must be practice, questioning, exercises in methods of recalling, associating, combining, and presenting the results of information and understanding,—in short, mental discipline.

Mr. ISAAC FRANKLIN RUSSELL.—From observation of a good many years in the South, President Baldwin's paper is as true as Holy Writ all the way through; and, if he had gone farther and said that the millions and millions of dollars furnished by Northern philanthropists and capitalists for the higher education of the Southern negro are wasted and worse than wasted, I should still agree. I think there should be some general educational board, and the money should be referred to this general educational board, so that the funds could be directed into proper channels, into effective places, because the money that has been expended in the South has produced more crime than good. You find boys who have gone to a university and been educated for something, no one knows what, standing on the street corners in a white shirt that their poor mothers at home have ironed, hoping to live by their wits or by politics.

A MEMBER.—I have visited nearly all the universities of the South, and I was very much encouraged in seeing so much intelligence developed among the negroes, and by the friendliness of the ex-Confederates within the last ten years.

Mr. RUSSELL.—I do not wish to be regarded as subscribing to the proposition that it is a crime to educate these negroes or contribute toward the foundation of educational institutions. I am prepared to believe that negro education at the South, in so-called colleges and universities, is a long distance off from the practical problems of housekeeping and carpenter work, just as the education in most of the colleges that have been spoken of was found insufficient, in one case, to give girls a knowledge of boiling beets. I have been educated, by observation and experience, along the lines suggested by Mr. Baldwin's admirable paper, with the substance of which I agree entirely. One of my university students, a black man and a lawyer of repute, has started a colony, gotten up a farm, and an experiment is being tried in Suffolk County, along the line of the Long Island Railroad, to solve the negro problem by bringing the blacks North. I would like to ask President Baldwin if he has been led to any conclusion as to the result by observation of that experiment, which is to take to Long Island negroes who have been denied liberty elsewhere and who are searching for it, and to build up a settlement composed entirely of blacks?

Mr. FORTUNE (editor New York *Age*, and given the floor, by courtesy of the Association, to speak for his race).—I want to make a few corrections and deductions from the paper of my friend President Baldwin, whom I know to be intensely interested in this work. I am thoroughly convinced that it is

impossible to pin down the Afro-American people entirely to industrial education or to higher education, for the simple reason that they are just like any other race.

And I want to say there are not eight million negroes in the United States. I should take it that there were about three million, five hundred thousand of them, and that the rest are pretty badly mixed, by courtesy of their white masters, and it is pretty hard to say what you should call them.

It is true that at the end of the war, as Mr. Baldwin has stated, carpenters, masons, and blacksmiths and all those people who did the real industrial work of the South were among this black population. It is largely true that a great deal of that work has slipped away from that people because of what is now regarded as false education. I do not consider that education as false, for the simple reason that it was necessary. I cherish the memory of those New England women who, at the close of the war, went South and laid the foundation of this higher education. They brought morality and New England ideas of thrift into the black homes of the South. And I resent any statement that the black criminality of the South is in any way due to that education. The criminal statistics of the South do not show any such thing. We have to-day twenty-five thousand Afro-American school-teachers in the South, holding certificates from white superintendents of schools. The white teacher has been supplanted except in one or two of the large cities.

I consider my position in the social economy just as good as any man's, and I will contend for what I consider as justly mine wherever I am. I consider Tuskegee and Howard University as among the great institutions of this country, and I deem my friend Booker Washington the greatest man we have to-day. I say that a race that has produced Booker T. Washington, Frederick Douglass, and Paul Laurence Dunbar, cannot be confined to the industrial pursuits. I have always considered, in the main, that the Tuskegee idea was correct; but the principle is wrong that a man should first learn to work and then develop his head. My idea is you have got to educate the head before the hand. The more intelligent the head, the more intelligent the hand.

There is no comparison to be drawn between the social conditions in Boston and in the South. If I start on a journey, I want to pay for what I get; and I want the comforts that civilization affords. I get all this in Boston and the North and West. I do not get it anywhere in the South. You cannot eliminate the social question, and you cannot eliminate the negro from politics. I cannot eliminate myself from politics. It is impossible for me to do it, and still preserve my self-respect and my identity as a citizen.

Mr. BALDWIN.—I do not mean to say that the negro is not capable of higher education. There is a percentage of the negro race that can take higher education, and should have it; for example, those who show themselves competent to become teachers or professional men. But I am talking about this great black mass of poor, poverty-stricken negroes who are at the bottom. When we have such men as Frederick Douglass, Professor DuBois, Paul Laurence Dunbar, and Booker Washington, we know that the negro is capable of receiving higher education. It is that poor, dense mass of blacks and whites at the South to which I refer.

Mr. Root.— Some few weeks before his lamented death, General Armstrong spent an evening in my study, in which he discussed the whole problem of negro education and development; and at that time there was no higher authority than this gifted man. He expressed himself most optimistically in regard to the future of the negro on the lines of education, both primary and higher. In regard to the attitude of the Southern people, he expressed himself as most gratified, and declared that the Southern States, especially the State of Mississippi, had been willing to expend large sums of money in providing for the education of the negro.

Mr. Woods, of Marion, S.C.— It has been a rare pleasure to me to hear intelligent men, learned men such as we have here, express such appreciation of the difficulties that we have encountered in the South on this question of negro development and education. It has also been a pleasure to hear a representative of the colored race speak with the intelligence with which Mr. Fortune has spoken. I trust I am one of those of the South who has no unreasonable prejudice against the negro race. I may say that I have, in a very humble way, endeavored, as best I could, to forward their efforts toward education; and it has only been in recent years that I have been able to see light on this subject of the development of industrial education. With all the sympathy we may have for the negro race, there are certain facts which we must face, which grow out of nature, whose depths no psychologist has ever sounded. There is, undoubtedly, in all nations a race prejudice. We may try to reason it away; but it exists, and must ever exist. It has never been eradicated from any race, so far as I know. And I trust I may be excused, Mr. President, when I say if this inherent prejudice had not been counteracted by that deep, generous attachment from the slave-owner to the slave for his faithful service, and from the slave toward the master for his protection and care,— if it had not been for these sentiments after the war, there would have been a carnival of bloodshed instead of what I may call the smaller offences. And I may say, further, that, if conditions had been reversed, and the negro race had been put over the Northern people, without this restraining influence, there would have been massacres and enormities unspeakable.

The race prejudice exists in politics, and the negro will never again be allowed to exercise political power in the Southern States. Whatever may be your opinions or mine on the subject, the white men of the South must rule their country, or be driven from it. Any man who goes there and studies the conditions will see the white man will rule, if it must be through fire and bloodshed. He will, as long as he is able, stand the fire and bloodshed; and, when he can stand it no longer, he will depart from his country. This was illustrated by the means resorted to for the redemption of South Carolina from negro rule. No truthful man would claim that the elections in South Carolina of that time were real elections. They were revolutions just as much as the French Revolution, and just as much as the American Revolution. We in the South have been in this peculiar position,— most unfortunate with the Anglo-Saxon race,— we have been confined to one political party; and no free government can prosper under this condition, the very essence of people's government being party government. But, however much we may differ on the tariff or on the silver question, we all have had to vote the Democratic

ticket because there has been nothing else to vote. We are confined to it because no man, no body of men, have dared to do otherwise, lest he should imperil white supremacy. Now that is the excuse for the disfranchisement of the negro; and the people will, no doubt, stand by it. The result in the long run will be we will have the advantage of two political parties in the South.

Dr. CURTIS.—I think this great question of trades-schools is very important, and will apply very well to the population of New York State just as well as to the negro of the South. In building in New York City, the trades-union will build your cellar, a German cabinet-maker will put in your wood finish, an Italian will fresco your rooms, the plumber may be an American,—and that is the only bit of American labor you will find on the whole building. You will find that, of the sixty thousand visitors at the race track, a large percentage are from our public schools. The absence of a good trades education, I think, is just as great, and the need just as great, in New York to-day as in the South.

II. DEPARTMENTS OF FINANCE AND SOCIAL ECONOMY.

I. SOCIAL RELATIONS IN THE UNITED STATES.

BY F. B. SANBORN, OF CONCORD, MASS., CHAIRMAN OF THE
DEPARTMENT.

[Read Wednesday morning, September 6.]

The department over which I have presided for some years was detached from one of the original four departments with which our Association began, in 1865, in order to give scope for the special consideration of social questions of a peculiar kind,—those directly affecting the mass of the people in their industries, amusements, savings, housing, and general condition from day to day and year to year. It has therefore sought to avoid discussions merely academical or looking to distant considerations, but to attend more closely to the affairs of practical life. A time has arrived, however, when the general social relations between one portion of the people and the others are so uncertain, and so often disturbed, as to remind the historical student more of the factions in the Grecian cities, as portrayed by famous historians, than of the natural intercourse of life in a Christian democracy.

In a whole section of the cotton-growing States the color feud, which has long been a reproach to our civilization, has broken out of late, with shameful violence, and has received less attention from the national government than the affairs of remote islands, accidentally involved in the casualties of our war with Spain. In another section the race antipathy of Americans against Italians, which some years ago brought about perplexing international complications, has again manifested itself bloodily. In the cities of the more northern States the relations of labor and capital, long uneasy, have been sharpened to the pitch of riot and boycotting, with loss of life and much suffering and terror among the citizens of the places affected. And throughout the nation there is

an anxious distrust by the classes of least social influence, but of the greatest political power, should they choose to exert it,—a distrust of the wealthy and powerful which has never, in my recollection of more than half a century, been so marked or so universal as of recent years.

There must be some cause or causes for so peculiar a situation, implying such a great change from the comparative quiet and cordial relation between one class and another which used to exist, at least in a great part of the country. And it may be worth while to inquire a little into what the causes may be. Some of these are obvious and might have been anticipated; in fact, were gloomily foretold when, as a result of the Civil War, we emancipated the slaves of the South by millions, and gave them, on paper at least, civil and political rights for which slavery had not prepared them. It was to be expected that a change so sudden and total in the relative position of whites and blacks, of slaves and masters, would be followed by violence on both sides, and discontent in the weaker party; and this has actually occurred. But, until the past twelve months, this discontent and violence has seemed much less than could have been predicted by those who opposed emancipation and the franchise. And perhaps the present uneasiness, eventuating too often in deeds of blood, dismal to contemplate, is but one of those hot fits which indicate that disease in the body politic is proceeding toward its quiescent stage, by the usual recurrence of cold and hot in fever patients.

It is easy, too, and not wholly without justification, to charge much of the derangement of the labor market to the long-continued access of foreigners to our shores and opportunities. The recent foreign element in America had much to unlearn when it arrived here; it had also something to learn and something to teach; and in the whole process many things would occur which mutual ignorance and the native prejudice against all foreigners would readily account for. Assimilation, whether benevolent or egoistic, is not a short or easy method of dealing with foreigners. We have been for a hundred years, at least, assimilating the Irishman who came here in such shoals before and after our Revolution; yet he remains only partially digested now, in the stomach of the nation. The same may be said of the German, who still clings to the traditions, if not to the religion, of the Fatherland. The people of Southern and Eastern Europe, who

have immigrated of late years, appear to be even less easy of assimilation; and, as every nation brings with it a stock of race prejudices and antipathies, each new ingredient adds a new ferment to the mixture.

But, over and above these obvious causes of agitation, there are more obscure, or at least less mentioned, causes which are quite as general and pervasive and less inevitable in their apparent character. The rapid accumulation of wealth among us—tending for many years to the holding of a few enormous properties in hands that have neither earned nor, strictly speaking, inherited them—creates a special class of the rich, who, by the very nature of their wealth, are less in connection with the wholesome mass of the people, and shrink from much contact with them. These are imitated in their feelings, habits, and way of life by less wealthy persons, who imbibe the opinions and manners of the immensely rich, and would fain belong to their exclusive circle. In proportion as such become more exclusive, the farther are they removed from the bright, intelligent people, a little below them in the scale of wealth; and these also separate themselves from the next class below. How many of these social strata there may be I will not undertake to say,—more in some regions and fewer in others, I fancy,—agreeing in one main point, the avoidance of taxation for the benefit of their poorer neighbors.

In this matter of taxation, as well as in the general relation between the very wealthy and the laborious classes, the latter have learned to feel that the former are against them; that the courts and the leading attorneys are very sure to be on the other side when the cause of poor men is in dispute; and that combinations of capital, such as are now every day reported in the newspapers, are injurious to the laboring man. Whatever the fact may be in these respects, such is the tendency of feeling among the poorer members of society. It is customary to say that this is the result of the teaching of "labor agitators" and "walking delegates"; and no doubt there is some truth in the statement. But it must be admitted that the conduct of the wealthier classes gives only too much reason for this misconception,—if it is one. A good instance of this is what took place three or four years since in regard to the national income tax.

It is quite generally held now, by political economists, that an income tax, after it has been long enough in existence to over-

come the first difficulties of its enforcement, is the most just and the easiest of collection of all the direct taxes. Such has been the experience of England, where taxation, after much inequality and irregularity, has become the most scientific and practically equitable of any in the world. Our Congress, perceiving the need of further taxation to prevent a deficit (which has ever since existed), enacted an income tax, faulty in detail, no doubt, as all such first enactments are, but just in principle, and intended to make the very rich bear their full share of the national burdens. Instantly this small but powerful class, apparently unwilling to be equitably taxed, began an agitation, through newspapers which they controlled and attorneys whom they retained, against the constitutionality of a mode of taxation which had been sustained by every Supreme Court, from Marshall to Fuller. By great fees they secured the eloquence and subtlety of great lawyers, who argued the case before a court which certainly has not the high reputation of Marshall's, and by the shifting opinion of a single justice set aside the income tax. When a political party, conscious of the injustice, and cognizant of their country's judicial history, pronounced against this inequitable technicality, a chorus of outcry arose from the same newspapers and corporation lawyers, denouncing the Chicago platform, in this particular, as if it had encouraged "anarchy": whereas it had only led the way to a future annulment of the late decision, just as the anti-slavery men in 1857-60 led the way to annulling the infamous decision of Taney and his associates against the legal rights of black men. Yet the only men who could suffer in purse by the income-tax law were those who had previously been exempt from the just burden of assessment; and to annul it was to continue the over-taxed of the poor for the benefit of the enormously rich.

Were this the only form of legalized extortion to promote the heaping up of great fortunes, it would perhaps have escaped so much censure as it has received, and will receive; for taxation can never be wholly equitable so long as men are selfish and subtle. But it came to the public notice when many modes of encouraging the hurtful accumulation of riches had attracted attention; when dropsical wealth was wielding its diseased influence in many ways in our nation of ostensibly equal rights; when legislation was notoriously bought or thwarted by large private interests; when the courts were under suspicion for attempting to

govern by injunction in matters of property, without the sanction of positive law, or the safeguard, such as it is, of jury trial; when the combinations of capital had driven the employed to make combinations for their protection which sometimes trench on the liberty of contract as much as the trusts and syndicates do for the profit of the wealthy and powerful. Coming at that time, it has unquestionably sharpened the conflict between those who have much and want more and the great mass of mankind, who have but little and want more.

Along with this increasing feud of Want and Have has gone a more marked separation between the social classes, based on wealth and culture, than those of us who remember the society of the Northern and Western States for the past sixty years (as I do) have ever seen, or could have imagined as possible before the Civil War. Something like equality existed in rural America from 1839 to 1859, except where the distinctions of color slavery prevailed. There were classes, but only as there are waves of the sea, one rising and another falling, and the same fluctuating water in all. The poor man became the rich man; the gentleman of yesterday left his son to be the pauper of to-morrow; ancestry and heredity counted for something, as they always must. But there were no permanent great fortunes, entailing luxury and vice on the descendants of frugality and diligence.

The war and its sequel changed all this. Advantage was taken by the shrewd and powerful to perpetuate their possessions in corporate and trusted methods; laws were contrived or framed to increase what was already too big; and the impulse to prosperity, given by the restoration of the republic to its original mission of liberty for all, did the rest. In no age or country of the earth—not even in Roman days, when consuls and proconsuls pillaged provinces to fill their private coffers, and gambled for empire, as do the financiers of London, New York, and Chicago to-day—have enormous fortunes so piled up in a single lifetime as in America since the assassination of Lincoln, our last great statesman to understand the need of justice to the poorest of mankind. We are now in the *crescendo* movement of immense injustice to the poor, the black, the small nation, and the small merchant. The poor righteous man, who has such an encomium from the Hebrew sage in Ecclesiasticus, gets no chance at all in the present jostle of millionaires and major-generals, colonial secretaries and em-

perors of German and Russian and North American countries. Dives has got the standing armies on his side, and can crush a Boer or a Filipino as carelessly as a bicycler knocks down a foot-passenger. Poor Lazarus no longer has the small comfort of dogs to lick his sores. The fawning animals have gone over to Dives, and are hiding his sores from the world by a prodigious barking which they keep up in the daily, weekly, and monthly newspapers, more particularly the religious ones and the yellow kind.

Edmund Burke lamented that the age of chivalry had passed, and that of sophisters, economists, and calculators, had succeeded; that "dignified obedience and subordination of the heart, which kept alive the spirit of an exalted freedom," were no more to be seen in Europe. We, in America, have more cause to regret the mitigated form of social equality which made our Revolution possible, and of which Washington was the rather unwilling but honorable champion, and Jefferson the brilliant propagandist. Equality of privilege and opportunity was our "unbought grace of life, cheap defence of nations, nurse of manly sentiment and heroic enterprise." To substitute for this a grasping and pretentious plutocracy, play polo and golf with the Declaration of Independence and the Constitution of 1787, and break the kindly ties that united the toiler and the employer when both recognized that they were men living under equal laws and were neither to be locked out nor boycotted, would be a change far more for the worse than that which came over Europe with the French Revolution. Toward something of this sort the aggrandizers of material riches, the absorbers of black men and white men, brown men and red men, in the mere interest of dropsical wealth and selfish imperialism, are fast tending. They will be met, as in the days of the French Revolution, by an uprising of popular wrath and selfishness which will sweep them away with all their accumulations, unless they have the good sense — of which few signs yet appear — to pay more regard to the traditions and Constitution of their country, and the basic principles of the Christianity which they superficially profess and daily violate in word and deed.

At the conclusion of Mr. Sanborn's address on "Social Relations," the following debate ensued :—

Rev. Dr. ANDERSON.—I think you stated that the income tax was proposed a few years ago, and a conspiracy was entered into on the part of the plutocracy, which found expression in the newspapers, to secure an unfavorable decision. I would like to ask whether this is supported by facts, whether you can bring any proofs to show that there was such a combination on the part of the plutocracy to secure any such result, or is it reformatory talk?

Mr. SANBORN.—The evidence is that the ablest lawyer in New York, our present minister to the Court of St. James, went before the court and argued the case; and the opposition by the government was so slight that the case was practically, as I suppose, given away. Does Dr. Anderson think that the combined wealth of this country, with the employment of the best lawyers, has not an influence in all the courts? I did not use the word "conspiracy."

Dr. ANDERSON.—My question was whether the plutocracy are entering into or have entered into any conspiracy, whether the plutocracy have reached that point, and whether they are conscious of this.

Mr. SANBORN.—Mutual interests bring them together, though they are always quarrelling among themselves. They are brought into a sort of combination by the very circumstances of the case. Take the case of the slaveholders, whom Dr. Anderson remembers. There were plenty of differences of opinion among the slaveholders on other questions, but their interest brought them together. A strong man like Henry Clay detested the institution of slavery; yet he was obliged to go into the same combination, though oftentimes led by Calhoun, his bitter opponent. Practically, Clay and Calhoun worked together for the institution of slavery, although Clay in his heart and sympathies was against it. Just so with this class of wealthy men at present. The interests they share bring them into combination with each other.

Mr. WARNER.—A large part of that opposition to the income tax was made, not by very wealthy people, but by people with a fixed income; and the idea prevalent was that it was impossible to have the tax honestly paid, because the very rich people had a way of evading anything like a tax, and the income tax would fall upon clerks and those of fixed salaries.

Mr. SANBORN.—I am only speaking of the decision by which it was overthrown. In New England the business men claimed that the operation of the income tax as administered would throw open their business to the inspection of their rivals. Now that is a sound objection, and that was the chief objection made in New England.

Dr. MCKELWAY.—In 1862 the institution of that tax was as vigorously opposed as any tax in recent years, and we used to have the same exhibitions of unfairness and dodging then as now. Human nature has not changed, journalism is very little changed, and the devices to "beat the government" have been very little changed. Back of the war-time tax was the excuse, and the justifiable excuse, of making everything that should contribute contribute to the expense of the government in the preservation of the Union. I think in

this last decision is suggested the idea that an income tax might be allowable in a war emergency. I do not see why we should necessarily charge wealth with crime or plutocracy with conspiracy because it only takes means to ascertain what are its rights under the law. I do not believe that one dollar is entitled to any more protection than a million of dollars, and I do believe that a million is entitled to just as much protection as a single dollar. You have asked whether I doubt or any man doubts that the vast influence of combined wealth was without effect upon the courts. The one thing in this country that has a fear of the courts of this country is the wealth of this country. No jury will bring in a verdict on the simple facts of the case between a corporation and an individual without a bias against the corporation. And the bar appears to divide itself into almost reputability and disreputability between those who have the temerity to defend corporate wealth and those who will lend themselves to the manufacture of legal evidence in order to recover unjust damages. Our appellate courts have to maintain an almost apologetic attitude when they expound the simple principles of justice in a case affected by corporate wealth. I think our State courts will compare with advantage to those of the federal judiciary; and I think the experience of New York is that the elective system is better than appointive one in the making of judges.

Mr. SANBORN.—I did not charge the courts in general with being under the influence of wealth. I said legislation had been bought and the courts were affected. Everybody recognizes that our higher courts in general have been worthy of the respect in which they have been held; but everybody who remembers the period of pro-slavery domination knows that the Supreme Court of the United States, under Judge Taney, was as absolutely in the slaveholding interest as if appointed for the purpose by a pro-slavery emperor.

Dr. MCKELWAY.—I have always thought that the Supreme Court of the United States was called upon to expound the laws as they were and the Constitution as it is, and that the court decided in favor of the institution of slavery under the terms of the Constitution; that the men who made the Constitution were responsible for the condition of things which were found in that written compact. I believe that Judge Taney has been as unjustly charged with wrong-doing as any man in our time. I know he is charged with saying that black men had no rights that white men were bound to respect. Far from that, he said the contrary. In his opinion, he said, in substance, that on a review of the statutes, before his court it would almost seem as if black men had no rights that white men were bound to respect. And he never gave to that proposition his support or commendation. We must remember that at that time compromise was the essence of the Union itself, that it was a capsule around slavery, and our fathers thought union was before liberty, that union was beyond liberty, that, if liberty imperilled the union, it should be restrained.

President BALDWIN.—One of the remarks by the chairman, as I understood it, was that the legality of an income tax had been repeatedly affirmed prior to the recent decision when the contrary was set up. I hardly think that is borne out by a review of the decisions of the Supreme Court. During the Civil War the question of the income tax and its constitutionality was not urged and made a matter of adjudication by the Supreme Court. A

long delay at that time was necessarily involved in an appeal to the Supreme Court, three years being then required after a case was brought to the Supreme Court before it could be heard. So that, if a case had been brought in 1863, it would have been impossible to have secured a hearing before the close of the war. Fifteen years after the war a case was heard, in which the court took a view different from that in the recent decisions referred to by the chairman (*Springer v. U. S.*, 102 U. S. Reports). The question was simply, What, as matter of common sense, does the word "indirect" tax mean? Our Constitution declares that the taxes open to the federal government must be either direct or indirect. Direct taxes must be apportioned among the States, whereas indirect taxes must be uniform throughout the country. The question is, Which is an income tax? is it a direct or indirect tax? If we went to political economy and asked the books for our answer, there would be no difficulty. The books tell us that a direct tax is one you cannot throw off: you cannot make somebody else pay it. You must pay it yourself, and bear the burden: whereas an indirect tax may be thrown off. Now was the income tax a direct or an indirect one? The economists said a direct^{*} tax. In the decision in the Springer case, the Supreme Court held that by a direct tax was meant a tax on land or on men, one or the other; that it did not mean what the political economists said; that, in our Constitution, it meant this artificial thing a tax on land or a corporate tax. In the recent decision, the court held that the political economists were right. That really is the gist of the decision of the Supreme Court in the income tax case. Right or wrong, I do not see that it was dictated, so far as would appear from reading the report of the case, by any other considerations than those legitimately applicable to the legal construction of a written document.

2. NEGRO CRIMINALITY.

BY WALTER F. WILLCOX, OF CORNELL UNIVERSITY, CHIEF STATISTICIAN IN THE CENSUS OFFICE.

[Read Wednesday morning, September 6.]

The number of prisoners in the United States was reported at the last census, showing those of African descent and those of pure white blood. In the Southern States there were six white prisoners to every ten thousand whites and twenty-nine negro prisoners to every ten thousand negroes.* This seems to indicate that the liability of an American negro to commit crime is several times as great as the liability of a white. But those who are unwilling to admit this inference sometimes urge that the judicial system of the South is almost entirely in the hands of the whites, and that it is not administered with impartiality to the two races. They claim that a negro is convicted, on the average, upon less evidence than is required to convict a member of the dominant race; that, if found guilty, he is less likely to escape prison by paying a fine; and that, if both are imprisoned, the negro is likely to receive a longer sentence for a like offence. To meet these objections to the entire satisfaction of the person raising them would probably be difficult or impossible, and so, for the sake of my argument, let me for the moment admit their validity. If one thinks they furnish an adequate explanation of the large number of negro prisoners in the South, he may be asked whether they lie also in the North. Does it take less evidence to convict a negro here, or is a negro's sentence for the same offence likely to be longer? Such a claim has never to my knowledge been raised. Yet in the Northern States, in 1890, there were twelve white prisoners to every ten thousand whites, and sixty-nine negro prisoners to every ten thousand negroes. In our own State of New York the negroes, in proportion to their numbers, contributed over five times as many as the whites to the prison population.

* Eleventh Census, "Crime, Pauperism, and Benevolence," i: 125 and ii: 3.

These facts furnish some statistical basis and warrant for the popular opinion, never seriously contested, that under present conditions in this country a member of the African race, other things equal, is much more likely to fall into crime than a member of the white race. This is the unanimous opinion of the Southern whites, and is conceded by representative negroes. Thus, among the resolutions adopted by the Negro Conference at Hampton, Va., in July, 1898, was the admission * that "the criminal record of the colored race in all parts of the country is alarming in its proportions."

The negro prisoners in the Southern States to ten thousand negroes increased between 1880 and 1890 twenty-nine per cent, while the white prisoners to ten thousand whites increased only eight per cent.† Here, again, to the obvious inference that crime is increasing among the negroes much faster than among the whites, the same objection is sometimes raised, namely, that prejudice against that race is so influential in the South as to invalidate the argument. The same appeal as before to the figures for the North and West constitutes a convincing reply to any such contention. In the States where slavery was never established, the white prisoners increased seven per cent faster than the white population, while the negro prisoners increased no less than thirty-nine per cent faster than the negro population. Thus the increase of negro criminality, so far as it is reflected in the number of prisoners, exceeded the increase of white criminality more in the North than it did in the South. To bring the facts home, I may add that for New York State in 1880 there were sixteen white prisoners to every ten thousand white population; and in 1890 the proportion has risen to eighteen. But the negro prisoners of the State in 1880 were seventy-seven, and in 1890 one hundred to every ten thousand negroes. These figures serve to show both the higher rate and the more rapid increase of negro criminality, and in both respects New York is a fair type of the conditions elsewhere in the country. In these figures one finds again some statistical basis for the well-nigh universal opinion that crime among the American negroes is increasing with alarming rapidity.‡

* Hampton Negro Conference, No. 2, p. 11.

† Compare preceding citation from the Eleventh Census with the Tenth Census, xxi: p. 479.

‡ The serious difficulties in the way of comparing the criminal tendencies of different classes by inferences drawn from the statistics of prisoners are ably stated by R. P. Falkner, "Crime and the Census" (in *Annals American Academy*, January, 1897). I do not believe that

In further support of this conclusion, I may quote the concession of the negro who is perhaps doing as much as any member of his race to throw light upon its present condition. Professor DuBois, of Atlanta University, in a recent address before the Negro Academy, said: * "The Negro Academy ought to sound a note of warning that would echo in every black cabin in the land. Unless we conquer our present vices, they will conquer us. We are diseased, we are developing criminal tendencies, and an alarmingly large percentage of our men and women are sexually impure."

Let us grant, then, that there is a large amount and a rapid increase of negro crime in the United States. This gives rise to a serious practical problem,—How may this amount be reduced or at least the increase checked? The answer to that largely depends upon the answer to a more theoretical question, which will define my theme this morning,—What are the causes of negro crime? If those causes can be detected and removed or counter-acting causes set at work, the practical problem will have been advanced towards solution.

The criminal is one who refuses to obey the laws of the community in which he lives. Such obedience to the law in the face of temptation is not an instinct or birthright, but a product of training, and in the great majority of instances that training is obtained in the family. The primary cause of crime, therefore, is defective family life and training. Hence crime is most common during the years just after a child has passed out of the control of the family, and while he is finding himself ill-adapted by his past training to the new sphere of life. In proportion to population of the same age, the prisoners between twenty and thirty are much more numerous than those of any earlier or later age period; † and, if the date of committing the first crime could be ascertained,—and that is the important time,—the juvenile character of our criminal population would appear yet more clearly. This youthfulness in comparison with the population outside is characteristic of all classes of prisoners, but pre-eminently of the

his objections vitiate my inferences in the guarded way in which they have been stated. While the statistics of prisoners in one way which he has pointed out exaggerate the criminal tendencies of negroes, yet a comparison between the prisoners and persons of all ages tends to understate the true criminality of a race, a disproportionate number of which are children, and so under the criminal age. These two obstacles to accuracy in quantitative statements of the amount or increase of crime thus tend to neutralize each other.

* W. E. B. DuBois, "The Conservation of Races," p. 14 (in *American Negro Academy, Occasional Papers*, No. 2).

† Eleventh Census, "Crime, Pauperism, and Benevolence," i: 163.

negroes,*—a fact which tends in a measure to confirm the frequent statement that negro criminals spring especially from the rising generation. If that be so, a further increase of negro criminality in the future is probable, and this probability renders the situation still more serious.

Under the slavery régime the negro had a feeble family life, much of the responsibility for the proper rearing of the family falling upon the master. The emancipated slaves have not been able in a single generation of freedom to develop or to imitate that family life which it has cost the whites many centuries to acquire. The difficulty is the more serious because to-day the conditions of civilized life do not foster the family virtues as they have done in the past. The white race is living on its inherited capital of family organization and responsibilities; the negroes have no such capital, but must acquire it, and that speedily, if the race is to survive.

What is the most effective safeguard against crime that the family furnishes the son or daughter? Not education, not even direct moral or religious training. The negro and the injudicious among his friends too often look on education and religion as fetiches, that is, something external, the possession of which guarantees the possessor a charmed and happy life here or hereafter. In distinction from these, the most effective safeguard against crime which parents can offer to their children is the desire and ability to support one's self by legitimate industry. A formal education is subsidiary to this; it is important mainly because it increases the avenues through which self-support is possible. If ever it serves to decrease the desire for self-support, it is to that extent baneful. If ever it decreases the recognized avenues for self-support by arousing the belief that certain lines of legitimate industry are degrading and therefore inadmissible, it is to that extent baneful. This may give a standpoint from which to judge the difficult question of negro education. If the negro family on the average is far less effective than the white, the education provided for negro children should aim frankly to supplement the shortcomings of their family life and reduce their temptations to crime by increasing their desire and ability to live by legitimate industry. Probably the best means by which to reach and reinforce the family life of the negroes is a school system which frankly sets this up as its aim.

* *Idem*, i: 167.

A closely related series of causes for negro crime may be grouped as *industrial*. Under the compulsory co-operation of slavery, little competition between the two races was possible. Manual labor in many pursuits, notably those of agriculture, was deemed by the whites servile and degrading. Since the war this motive for the white man to avoid field-work or other forms of manual labor has diminished in importance, and he has gradually entered upon tasks which before the war were closed to him by the pressure of social sentiment. In ceasing to be master he has become competitor, and to the pressure of this competition not a little negro crime must be attributed.

Hence it is no digression to invite your attention for a few moments to some evidence of the increasing competition between the two races. The staple crops upon which the negroes were occupied before the war were probably cotton, tobacco, sugar and rice. In 1860 the great mass of the work in the *cotton* fields was done by negro labor. White labor was used, to be sure, in Texas, but at that time the whole cotton crop of Texas was less than one-twelfth of the country's product.* It would probably be a conservative statement to say that at least four-fifths of the cotton was then grown by the negroes. The only official estimate for any date since that time is that of the Statistician to the Department of Agriculture in 1876.† He concluded that about three-fifths of our cotton was raised in that year by negroes. At the present time probably not one-half is thus grown. In 1859 Texas produced one-twelfth, in 1897-98 one-fourth, ‡ of the cotton of the United States; and, as in that State white labor is usually employed in the cotton fields, the advance of Texas means the advance of white agricultural labor.

Similar changes have been going on in the *tobacco* crop. In 1859 twenty-eight per cent of it was grown in Virginia, and mainly, it seems, by negro labor. In 1889 less than ten per cent of our crop was grown in that State, and the Virginia crop of that year was less than two-fifths of what it had been thirty years before. In 1889 Kentucky produced over forty-five per cent of the tobacco of the country, while ten years earlier it produced only thirty-six per cent. American tobacco growing evidently is tending to centre in Kentucky, and yet it is the only Southern State in which the number of negroes decreased during the last decade.

* Eleventh Census, Abstract, 122-125. † Department of Agriculture, Report, 1876, p. 136.

‡ Department of Agriculture, Year Book, 1898, p. 683.

In over half its counties and in the State as a whole, the negro population decreased while the white increased between 1880 and 1890.* It seems that tobacco growing, like cotton growing, is passing more and more into the hands of the whites. Some light upon this change may be derived from a passage in the last Annual Report of the Secretary of Agriculture:† "The tobacco business has become very highly specialized. Each market has its own requirements, each class of users has its own particular style, and each season brings some change of style which must be met by the tobacco grower. There is a great deal of competition in our own country, and very serious competition from abroad. . . . To meet this competition, it is absolutely necessary that our farmers should have at their disposal a thorough knowledge of their own conditions, and of the conditions of the soil, climate, methods, and labor conditions of competing districts."

Of the cane *sugar* crop of the United States in 1889, over ninety-seven per cent came from Louisiana; and the increase of yield in the preceding decade was almost confined to that State, where the acreage under cane increased seven per cent and the yield forty-two per cent.‡ Apparently, the increase of yield in the last ten years, notwithstanding the losses resulting from recent federal legislation, has been quite as rapid. In a paper read in 1898 before the Louisiana Agricultural Society the statement was made § that this rapid increase in the production of cane sugar was "due especially to the establishment of large central factories." The machinery in these factories is managed, I am informed, almost entirely by white men.

With regard to the *rice* crop of the country, in 1879 less than one-fourth of the acreage was in Louisiana, in 1889 over one-half was there.|| During the last decade the acreage outside Louisiana decreased forty-two per cent, while that within the State more than doubled. In this, as in other staple agricultural industries, there has been a marked tendency towards concentration; and the centre of production has passed away from South Carolina, which in 1849 produced three-fourths of our crop, but in 1889 less than one-

* Eleventh Census, Abstract, p. 40; and Population, i: 412, ff.

† Department of Agriculture, Year Book, 1898, p. 42, f.

‡ Eleventh Census, Abstract, 126-128.

§ State Agricultural Society. Proceedings, Twelfth Session, p. 117 (in Louisiana Commissioner of Agriculture, Biennial Report, 1898).

|| Eleventh Census, Abstract, 130-133.

fourth. This transfer of the rice growing industry is largely due to the superior efficiency of white labor. A pamphlet distributed at the Louisiana Building during the World's Fair in 1893 and thus given apparently official indorsement, says: Not long since the Carolinas raised the rice of the United States, and the delta of the Mississippi the rice of Louisiana, all done by colored labor. The immigration agent of the Southern Pacific Railroad Company induced the men of the Northwest to come into southwestern Louisiana, bringing their improved farm machinery. They supplanted the hook and sickle then in use by twine-binding harvesters, of which many hundred are now employed in the Louisiana rice fields; and this machinery is handled by white men.* Corroborative evidence is found in a recent paper read before the Louisiana Agricultural Society, which states that there are now in the rice fields of Louisiana nearly five thousand selfbinding harvesters with steam threshers by the hundred, and that artificial irrigation employing steam pumps has been introduced on a large scale.†

From all the evidence obtainable it seems clear that Southern agriculture is become increasingly diversified, and is demanding and receiving a constantly increasing amount of industry, energy and intelligence,— characteristics which the whites more generally possess or more readily develop.

Some evidence upon the lack of industry of negro farmers in the black belt of Alabama may be derived from a recent Bulletin of the United States Department of Agriculture dealing with their food. Eighteen families near Tuskegee, Alabama, were selected as typical and studied by officials of the department in co-operation with representatives of the Tuskegee Normal Institute. The agent of the Department reported: "The negro farmer generally works about seven and a half months during the year. . . . The rest of the time is devoted to visiting, social life, revivals, or other religious exercises, and to absolute idleness. Few farmers work on Saturday even during the busy season of cotton-picking."‡

The same study gives evidence of the poor food supply of the negro farmers. In the diet of the average negro family the

* Southwest Louisiana on the Line of the Southern Pacific Company, pp. 45, f.

† State Agricultural Society. Proceedings, Twelfth Session, p. 39 (in Louisiana Commissioner of Agriculture, Biennial Report, 1898).

‡ Department of Agriculture, Office of Experiment Stations, Bulletin 38, "Dietary Studies with Reference to the Food of the Negro in Alabama," p. 18.

amount of protein — that is, of the material needed to form blood, muscle and bone, and to make up for the wear and tear of the bodily machine — was from one-third to three-fourths that which has been found in the diet of well-fed American whites, and “no larger than has been found in the diet of the very poor factory operatives and laborers in Germany and the laborers and beggars in Italy.”*

In agricultural pursuits the competition between whites and blacks can be traced more clearly than elsewhere, because in that field we have fuller information. Still there is some evidence, derived mainly from statements of educated negroes, that in *other occupations*, also, this competition is seriously felt.

Thus Professor Hugh M. Browne, of Washington, said, in a speech five years ago to a negro audience: White men are bringing science and art into menial occupations and lifting them beyond our reach. In my boyhood the household servants were colored, but now in the establishments of the four hundred one finds trained white servants. Then the walls and ceilings were whitewashed each spring by colored men; now they are decorated by skilled white artisans. Then the carpets were beaten by colored men; now this is done by a white man, managing a steam carpet-cleaning works. Then laundry work was done by negroes; now they are with difficulty able to manage the new labor-saving machinery.†

Similar testimony comes from another negro, Mr. Fortune, editor of an influential negro paper. He said in 1897: “When I left Florida for Washington twenty years ago, every brakeman, every engineer and almost every man working on the railroad was a black man. To-day a black man can hardly get a job at any avocation. This is because the fathers did not educate their children along the lines in which they were working, and, as a consequence, the race is losing its grip on the industries that are the bone and sinew of life.”‡ At the same conference Mr. Fitch, the field missionary of Hampton Normal Institute, reported that he found the old men everywhere working at the trades they learned in slavery, but nowhere did he find young men learning these trades.§ Similarly, Principal Frissell, in the opening address, said:

* *Idem*, p. 68.

† Reported in *A. M. E. Zion Church Quarterly* for April, 1894.

‡ *Southern Workman and Hampton School Record*, September, 1897, p. 179.

§ *Idem*, p. 168.

"There is great danger that the colored people will be pushed out of the occupations that were once theirs, because white tradesmen are coming in to fill their places." * This competition between the races is accentuated by the trade-union policy of exclusion, which often denies negroes the right of membership in labor organizations, and then opposes the employment of non-unionists, the net result of which is to antagonize the entry or continuance of negroes in the field of skilled labor.†

Every improvement in agriculture or industry anywhere tending to lower the price of a staple product is a spur to former producers. They must meet the situation by economies of production or economies of consumption, by improving their own methods or by living on a smaller return. Those who are sanguine of the future of the negro in the United States usually rest their case upon the evidence of negro progress since emancipation, measured against some assumed absolute standard. They point to a decreasing illiteracy, to accumulations of property, to a decreasing death rate, etc. But the test which the race has to face is the test of relative efficiency. If they are to hold their own in this country, they must improve as fast as the whites, and the progress of the Southern whites since emerging from the dark shadows of slavery, the war and reconstruction is one of the marvels of present history.

Partly under the stress of this competition to which the negroes are being subjected, partly as a natural result of their emancipation, they are gradually drawing apart into social classes. The successful families refuse to associate with those who morally and industrially are stationary or retrogressive. Dr. DuBois has recently made a valuable report on the members of his race living at a small county seat in the Virginia tobacco district. About 260 negro families were studied, of which 40 belonged to the higher

* *Southern Workman and Hampton School Board*, September, 1897, p. 167.

† As these pages are going to press, the preliminary report of the Third Hampton Conference brings confirmatory evidence on this point. The Committee on Business and Labor reported on the condition of negro skilled labor in certain large cities. Of Richmond, Va., they say: "Perhaps two thousand are employed in the iron works. This branch of business was at one time controlled almost entirely by colored men, but now they are employed chiefly as common laborers, with only here and there a master mechanic." The general trend of the report is summed up as follows: "The trade-unions along the border line of slavery have generally pursued a policy of exclusiveness on account of color, and refused to include the colored craftsmen in their scheme of organization. . . . In the North colored men, when competent, are generally received into local unions and treated fairly. In the South they work side by side, when not organized. When organization takes place, the colored workman as a rule is excluded." *Southern Workman*, September, 1899, pp. 333, f. Meagre evidence from other sources does not confirm the above statement so far as it applies to the attitude of Northern trade-unions.

class, 170 to the middle, and perhaps 50 to the lower. He describes the members of the lower class as "below the line of ordinary respectability, living in loose sexual relationship, responsible for most of the illegitimate children, and furnishing a half-dozen street walkers and numerous gamblers and rowdies. They are not particularly vicious and quarrelsome, but rather shiftless and debauched. Laziness and promiscuous sexual intercourse are their besetting sins."† In other words, this class lacks the family virtues and the industrial virtues which have made the white man what he is. It may be styled potentially criminal. A class of such people is found, to be sure, in every civilized country, but in our Southern States the proportion of this potentially criminal class is abnormally and dangerously large. About one-fifth of the negro families or over one-tenth of the total population in Farmville are assigned by Professor DuBois to this group. This growing social stratification of the negroes makes all efforts to judge them as a race rather than by classes, localities, or even individuals, increasingly unjust and irritating to them.

The strenuous and increasing industrial competition between the two races often results in local displacement of colored labor. The negro cotton grower, unable to live on the decreasing return from his land, gives place to another tenant, white or black, and the former family drifts away. The current of negroes to the cities is somewhat greater than that of whites and seems to consist of two classes, those who have earned a promotion to city life by their success in the country or small town, and those who have failed in country life and flow cityward to live on their neighbors or by their wits. Neighbors and pickings are more numerous in an urban community. This negro driftwood is likely to feel sore towards the whites. The latter are held responsible for the organization of society, and their fault it is if the negro can find in it no place for himself. They cared for him in slavery, and either their old masters or their new emancipators are bound to furnish him a chance for a livelihood. He is a voiceless socialist. Hence this driftwood belongs to the potentially criminal class.

A third group of causes leading to a large amount and rapid increase of negro crime may be embraced under the loose term *race friction*. All witnesses agree that since emancipation the two races have separated more and more in life and thought. Ex-Governor Northen, in his recent address at Boston, seems to

* The Negroes of Farmville, Va., p. 37 (in Department of Labor Bulletin, January, 1898).

attribute this to the national policy towards the South during the reconstruction period.* We may agree with him in part and still believe, as I do, that the industrial competition just sketched was probably inevitable, and is another important factor in drawing the races apart. But, whatever be the explanation, the fact is undeniable. Under the slavery system the main motives in governing the negroes were personal loyalty and force, and the emphasis upon one or the other varied with the character of the work and of the owner or overseer. As the races have drawn apart, this feeling of personal loyalty has become feeble, and many of the whites have felt that the only alternative mode of governing the increasing number of criminals was force, and that the more speedily and surely force could be applied the greater its deterrent influence.

But, as the negroes have separated from the whites, they have drawn or been crowded together, and have come to feel a race unity and race pride, and are developing a race public opinion which may prove of great importance in controlling the negro criminal class. The existence of this negro public opinion, as distinct from that of the whites, is hardly recognized with sufficient clearness by the dominant race, and to illustrate it the argument must be amplified. This can best be done by the aid of a typical instance, and I have selected for the purpose the series of recent events at Palmetto, Ga., culminating in the death of Sam Hose.†

Palmetto is a town of perhaps six hundred people in a county which contains no place of much greater size. About two-thirds of the county's population are negro. In the early morning of Tuesday, Jan. 24, 1899, a fire broke out in the centre of the town, destroying the hotel, two stores and a storehouse, and seriously threatening half the town. Some citizens moved out their goods, through fear that the fire would spread, and in this way they, too, suffered losses. There was little insurance on the property destroyed, and the contemporary newspaper account ‡ throws no light upon the place of origin or the cause of the fire. On the following Saturday morning, not long after midnight, a second fire occurred, by which twelve property holders suffered serious losses.

* W. J. Northen, *The Negro at the South*, p. 7.

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These fires together destroyed nearly all of the two business blocks in the town. The second was clearly incendiary, for in another block a fire was found the same night kindled against the outside of a store.* The Atlanta *Constitution* of March 17 says that two other fires occurred in the same town during February, but I have found no contemporary mention of them in the columns of that journal, and am uncertain whether the statement is correct. A reward was offered for the detection of the incendiaries, but for some weeks all efforts to ferret them out were fruitless.

About the middle of March evidence was obtained implicating nine negroes. An editor of an Atlanta daily paper, who made a special investigation of the facts after the terrible climax, has written me that the evidence against the negroes consisted in a conversation overheard by a reputable white citizen while in hiding under the house of a negro, and in a confession of the ring-leader. The negroes were arrested, placed under a guard of six white men, and confined for the night of March 15 in a warehouse at Palmetto to await trial the next morning. A negro at Atlanta, who also had made a special effort to get at the facts, reported to me that the nine had been examined, released for lack of evidence, and subsequently rearrested. I find no confirmatory evidence of this, and it seems almost certainly incorrect. At the same time I am confident that my informant, who is an impartial and judicious man, believed it. In that case the two stories illustrate the conflicting accounts accepted even by conservative members of the two races.

Soon after midnight a masked mob of perhaps fifteen men † pushed open the door of the warehouse, ordered the guards to throw up their hands, and fired two volleys into the nine negroes, killing four, seriously wounding two, slightly wounding two, and leaving one unharmed. Although the Governor of Georgia offered the largest reward allowed by law, five hundred dollars, for the arrest of the first member of the mob and one hundred dollars for that of each additional member, no one of the criminals was detected. They were said to have come from a distance, but the evidence warrants the conclusion that they probably came from Palmetto or its immediate vicinity. For the indignation over the fires was most intense in that community, and,

* *Idem*, p. 4, col. 4.

† *Idem*, March 17, 1899, p. 1, col. 1.

furthermore, the confession of the negro leader, apparently the immediate cause of the lynching, was made so shortly before, that the news of it could hardly have spread very far through the scattered population of that region.* As the motives to disclaim responsibility for the action of the mob were obvious and strong, the local statements denying complicity can hardly be given great weight. If this view of the probabilities be accepted, it throws light upon the action or inaction of the guards. The negro interpretation of their conduct is that they were dummies, aware that the lynching party was coming, and sympathizing with its action. The whites do not admit this, and yet even they, if the Atlanta *Constitution* may be deemed their spokesman, felt the guards' conduct to be suspicious. Note the questions asked editorially by that paper: "What was the guard there for? Were the guardsmen asleep while on duty? What became of their guns while the assailants were shooting down their prisoners? These are questions which should be answered, though it is hard to conceive what answer can be given."†

Whether any members of the mob of lynchers were recognized by the negroes who survived, it seems impossible to tell. According to newspaper accounts the mask was torn from the face of one, and the leader spoke in giving orders to his followers. Undoubtedly, however; many negroes believed, rightly or wrongly, that members of the squad had been recognized.

Four weeks later, in the immediate vicinity of Palmetto, Alfred Cranford was killed by a negro, Sam Hose, and ten days after Hose was put to death by a white mob. So far, and only so far, all accounts agree, but two widely different stories of the accompanying events have been printed, one coming from the whites, the other from the negroes. I may review and criticise the two narratives in detail. For the negro version the sources are the report of a detective sent by Northern negroes to investigate the facts. This was printed both in the New York *Age* of June 22 and in briefer form as a letter by Mr. Fortune, the editor of the *Age*, in the New York *Sun* of June 20. In regard to the events prior to the killing of Cranford, these accounts say that "one or two barns or houses had been burned" at Palmetto, and that the nine colored men arrested "were not men of bad character, but quite

* "It is practically certain now that the news of the confession, which spread quickly throughout the town, brought on the mob yesterday morning." *Atlanta Constitution*, March 17, 1899, p. 2, col. 2.

† *Idem*, March 18, 1899, p. 4, col. 2.

the reverse." The incorrectness of the former statement has already been shown; that the latter is equally inaccurate appears from the county records of Campbell County, which show that four of the nine had been indicted, the leader five times, another for burglary, and two for misdemeanors.* The negro story also states that Cranford was killed in the yard, and not in the house. To get light upon this radical difference in the two accounts, I wrote to the Atlanta editor, already mentioned, asking these questions: "Was the body of Alfred Cranford found in the supper room or in the yard?" He answered, "In the supper room." "Do you know this fact of your own knowledge or by testimony of others?" To this his reply was, "Blood showed position; eye-witnesses testified as to place." In addition to these errors of statement the negro version reads like a plea, and not an impartial balancing of evidence, and puts aside as untrustworthy the sworn testimony of Mrs. Cranford.

For these reasons, and others I need not stay to mention, I am compelled to reject what at the first I was disposed to accept,—this account of the events. Still, in some respects I cannot but believe that it suggests the probable facts. The version of the whites usually implies that lust was the main motive for the crimes of Sam Hose, and omits as irrelevant all reference to prior events at Palmetto,—a view which seems to me untenable. The lynching of the negroes charged with arson and the crime of Sam Hose were, perhaps, the most serious results of race friction that have appeared in Georgia of recent years. Assume that the first in no wise caused the second. In that case the chances against both occurring in the same small town and within four weeks of each other would be indefinitely small. I am compelled, therefore, to believe that the close proximity in space and time is evidence that the second was caused in part by the first. That is, the furious wrath kindled among the negroes of Palmetto by the lynchers was probably a potent influence upon the criminal nature of Sam Hose in bringing about his deed. The criminal nature and the special incentive re-enforced each other, and the result was a crime at which Georgia and the country stood aghast. The negro version, as set forth by a correspondent, says that Cranford was conspicuous in that region as "a nigger-hater," and was probably the leader of the party of lynchers four weeks before. Whether that be true or not,

* *Idem*, March 18, 1899, p. 2, col. 3.

it seems likely that the dominant motive for the murder and rape was revenge. On this theory the stoical silence with which Hose bore his tortures, and the evident pride of the negroes in that silence, receive new meaning. It was the weapon whereby, even in death, they felt that he triumphed over their enemies and his.

In the fate of Sam Hose as an individual, I have little interest. I believe the tortures he inflicted upon Mrs. Cranford by the murder of her husband, and in the hours that followed, were more terrible than those he suffered at the stake. But the point I would urge is that illegal execution of negroes by lynching, even when torture is added, has an inciting rather than a deterring influence upon the large number of potential criminals. I believe that the lynching of negroes at Palmetto tended to create the animosity out of which the crimes of Hose sprang, that the tortures and death of Hose tended to create the feeling out of which the crimes at Bainbridge, Darien, and elsewhere sprang. Along such a road one can see no end but a precipice.

During the Middle Ages such terrible events as have occurred sporadically at the South of recent years were frequent expressions of religious hatred. With the beginning of the sixteenth century, religious animosities receded into the background, and race animosities, resulting from the interpenetration of higher and lower races, came into prominence. The hatred between Catholic and Protestant in Europe appeared in the colonies as hatred between whites, reds and blacks. Powerful as these modern race passions are in the southern United States, they are, perhaps, stronger in the southern Philippines, where religious hatred and race hatred, the mediæval and the modern hate *par excellence*, concur and reinforce each other. One may perhaps forecast the future increase of race hatred between the lower classes of the two races in the South, if the trend be not changed, by reflection upon the attitude of certain Mohammedan Malays towards Christian Caucasians in the Philippine Islands, as described by Professor Worcester.

"Finally, there was a rumor that a band of *juramentados* was about to attack the place. Now a *juramentado* is a most unpleasant sort of individual to encounter. The Moros believe that one who takes the life of a Christian thereby increases his chance of a good time in the world to come. The more Christians killed, the brighter the prospect for the future, and, if one is only fortunate

enough to be himself killed while slaughtering the enemies of the faithful, he is at once transported to the seventh heaven.

"From time to time it happens that one of them wearies of this life, and, desiring to take the shortest road to glory, he bathes in a sacred spring, shaves off his eyebrows, dresses in white, and presents himself to a *pandita* to take a solemn oath (*juramentar*) to die killing Christians. He then hides a *kris* or *barong* about his person or in something that he carries, and seeks the nearest town. If he can gain admission, he snatches his weapon from its concealment and runs amuck, slaying every living being in his path, until he is finally himself despatched. So long as the breath of life remains in him, he fights on.

"Eye-witnesses have repeatedly informed me that they have seen *juramentados* seize the barrel of a rifle, on being bayoneted, and drive the steel into themselves further, in order to bring the soldier at the other end of the piece within striking distance and cut him down.

"The number of lives taken by one of these mad fanatics is sometimes almost incredible, but he is eventually killed himself, and his relatives have a celebration when the news of his death reaches them. They always insist that, just as night is coming on they see him riding by on a white horse, bound for the abode of the blessed." *

The white Caucasians of the Philippines regard a *juramentado* as a peculiarly fiendish criminal; many of the brown Malays regard him as a saint and emulate his deeds. The white Caucasians of Georgia regard Sam Hose as a peculiarly fiendish criminal; many of the black Africans, I fear, regard him as an innocent man and a martyr. As this point is of much importance for my argument, and will not meet ready acceptance among those who, like myself, are convinced of his guilt, I offer all the evidence on both sides that I have secured.

I have talked with two negroes of national reputation and of the highest standing among the best members of both races. Each doubted that Sam Hose was guilty of rape, and yet neither was willing to express that doubt over his own name. A well-known representative of a Northern paper went South to report upon the facts, and during his investigation had a meeting with a dozen or more representative negroes of Atlanta, to get their point of view.

* Worcester, *The Philippine Islands*, pp. 175, ff.

Both by him and by another of those present I am assured that none of the negroes at the conference was convinced of the guilt of Sam Hose. To this evidence should be added that of the detective employed by the negroes, and probably reflecting their beliefs. On the other side the only important testimony that has reached me is contained in a letter from ex-Governor Atkinson, written shortly before his death: "I have delayed answering your inquiry, in order that I might talk with some of the white and colored people from that section of the county in a confidential way. . . . The investigation made by me satisfies me that there is no reason for the doubt expressed by you in your letter. The negroes with whom I have talked would have had no hesitancy in giving me the information asked for, as in each case I assured them that their names would not be used and that I did not wish their personal opinion, but wished to know what the other negroes thought. One of my informants was a negro client of mine, who is a well-to-do man living in that neighborhood, knows the opinion of the colored people, and I know would not hesitate to have told me that the negroes doubted Hose's guilt if such doubt had existed." Even this evidence, strong as it is, does not outweigh in my mind that on the other side. These negroes may have been unwilling to speak the truth even to Governor Atkinson upon a matter on which feeling was so tense, or they may have been representative of the class of negroes in close touch with the whites and more ready than others to derive their beliefs from that source, or it may be that in the negro community where the Cranfords and Sam Hose were known belief in his guilt is more prevalent than elsewhere. On the whole, therefore, I conclude that a large proportion of the negroes of Georgia do not share the belief of their white neighbors about the guilt of Sam Hose.

In a recent appeal to the people of Georgia the governor said: "Lynch law does not stop arson or murder or robbery or rape"; and the Atlanta *Constitution* said editorially: "The punishment of the criminals who are overtaken, no matter how swift or how bloody, seems to have no effect whatever on the criminal class among the negroes. They seem to go as cheerfully about their crimes as if they were candidates for a martyr's crown; they murder, ravish and rob with all the zeal and fervor of religious fanatics." These opinions testify to a growing disbelief among whites in the efficacy of lynch law as a deterrent. As force is fail-

ing, some other means must be enlisted in defence of civilization. In slavery days such crimes were almost unknown, and mainly because of the loyalty of the slaves to their owners. Any effort on the part of members of either race to break down those barriers between them, which have been reared under reconstruction and race competition, and to restore the former relations must be of service. But, if this divergent trend of the two races continues, the only effective means of governing the criminal negro is through the co-operation of the better elements of his own race. Negro criminals have little regard for the condemnation of whites, whom they have learned to hate. Their feeling toward the better class of colored men cannot be of the same sort. The Atlanta *Constitution* recently appealed to the negroes as follows: "The honest, industrious, and self-respecting negroes . . . should take some measure calculated to deter the criminals of their color from their horrible work. . . . The negroes would have little trouble in reaching the ears of the criminals. . . . The negroes alone can put an end to a condition of affairs that is growing worse every day." I believe this to the full, but I also believe that the whites cannot win this co-operation from the negroes unless they are prepared to give a *quid pro quo*.

After the killing of Sam Hose, the governor of Georgia is reported to have said: "The negroes of the community lost the best opportunity they will ever have to elevate themselves in the estimation of their white neighbors. Had they helped to bring Hose to justice, it would have helped the cause in the eyes of the people. . . . The good and law abiding negroes must aid in bringing criminals to justice, whether they be white or black." If Governor Candler was correctly reported and weighed his words, he clearly implied a belief that Hose was brought to justice when he was illegally put to death. Killing by a mob for any offence, however hateful, is regarded even by conservative and order-loving negroes as an injustice, and, where there is a tacit understanding in the community, as there was during the pursuit of Hose, that the criminal if caught will be lynched, nothing more than quiescence can be secured from the negroes. If my conclusion is correct, the Southern whites must choose in such cases between gratifying a strong and natural desire for immediate retaliation, and coolly selecting the course which is best adapted to prevent such crimes in the future. I believe that ex-Governor

Atkinson, in dissuading the mob from burning Hose at the stake and urging them to let the law take its course, was choosing the wise way of preventing such crimes in the future, was the real defender of Southern homes and Southern women.

Now it seems clear that the guilt of Sam Hose was established by more convincing evidence than is secured in nine cases out of ten, perhaps in ninety-nine out of one hundred, in which a lynching occurs. If this evidence has failed to convince a large proportion of Southern negroes, including probably nearly all those of criminal tendencies, then in other cases, where the evidence is less conclusive, they must be less convinced. What the facts are is of less importance than what they are believed to be, for belief, not fact, is the motive by which men are swayed.

To make my conclusions upon this subject clearer, I may briefly state certain views with which I cannot agree:—

1. I cannot accept a large proportion of the accounts printed in Northern papers, describing the relations of the two races in the South. One of the virtues of civilization imperfectly developed in the negro race is veracity, and accounts coming from them must be tested carefully before acceptance. Where nothing is known regarding the trustworthiness of the witnesses or the inherent probability of the statements, the presumption is in favor of the white man's testimony. Hence those newspapers which apparently make the contrary presumption are often misled. One instance which came under my own observation may serve for a hundred. Recently a lynching occurred in Alexandria, Va., within five miles of the national capital. A Washington correspondent of the Boston *Transcript* described the facts, and said that the negro boy was guilty of nothing more than insulting a child. The Springfield *Republican* reprinted the letter, and in editorial comment said that the boy's only crime was his color. I went at once to the mayor of Alexandria, and learned from him that at a hearing over which he presided the eight-year-old girl testified that the negro had been guilty of indecent familiarities upon her by force. Probably any Southern jury, on hearing the child's testimony, would have found the negro guilty of an attempt to commit rape. Yet representative Northern newspapers in reliance upon their sources of information have seriously misrepresented the facts.

2. On the other hand, I cannot admit that all or most of the

alienation between the races is due to the grave mistakes of the reconstruction period or to the present policy of Northern papers. Race antagonism appears in other parts of the country, and in other countries, where this cause does not exist. To ascribe race friction at the South, as certain Southern writers and speakers do, solely or mainly to the past or present policy of the government towards the Southern States or to the tone of Northern papers, and then to say almost in the same breath that race friction and lynching are found in the North, is clearly inconsistent. The friction between the races was probably an inevitable result of emancipation, although hastened and intensified by the blunders of reconstruction.

3. It seems improbable that the policy of enlisting negroes as federal soldiers has had a decided effect in increasing negro crime. Certainly, the evidence offered in favor of this claim is by no means sufficient to establish the conclusion.

4. A restricted suffrage in the Southern States will probably not avail materially to improve the conditions. Negro crime is apparently about as frequent and heinous in the District of Columbia, where for a generation the race has had no political privileges, as it is in the States of the far South.

5. Education, in the ordinary sense of that term, will not materially improve the situation. An education which will aid the negro in securing self-support is of primary importance.

6. No federal legislation, such as that demanded by certain negroes against lynching or that demanded by certain of both races making large appropriations for deportation of the negroes, seems likely to be enacted or offers a real and adequate solution of the problem.

Positively, I may sum up my conclusions as follows:—

A large and increasing amount of negro crime is manifested all over the country.

This raises a problem pressing with especial weight upon the States where negroes are numerous.

The causes may be grouped as defective family life, defective industrial equipment and ability in comparison with their competitors, increasing race solidarity among the negroes, and increasing alienation from the whites.

Southern whites often exaggerate the agency of Northern whites or Northern negroes in causing the present condition, and thus minimize their own responsibility.

Northern whites often ignore the burden which Southern whites and the better class of negroes are carrying and the degree to which the federal policy since the war has contributed to increase race friction and negro crime. Hence they are often ignorant and unjust in their criticisms.

These misunderstandings are the strongest basis for the continuance and possible increase of sectional antagonism between North and South.

Lynching is harmful mainly because it prevents the rise of a public opinion based on a careful sifting of the facts. Where practised under any provocation, however great, by members of one race upon those of another, it fosters the development of separate public opinions one for each race, and hence tends to make co-operation of the two in one government impossible.

There has probably never been a more complete democracy than in the New England towns. Modern governments tend towards a more democratic form, and at the North the belief is very deep seated that the progress of humanity is dependent upon the maintenance and progress of democratic government. Now democratic government is essentially a government by organized legal public opinion. Any attempt to introduce government by disorganized public opinion secures at best the will of only a fraction of the public. Hence a believer in democracy is bound to be an opponent of lynch law, and the strength of the opposition in the North to lynch law is due, not as is sometimes said to hatred of the South, but rather to a love for democracy.

The greatest problem which modern democracy has to face is perhaps this: Can the democratic forms developed among a homogeneous people with unifying traditions, like the people of England, Old and New, be extended to people widely different in race, religion and ethical and social code? Can English forms of government ultimately apply to India and Egypt and South Africa? Can American forms be extended to the two races at the South or in the Philippines? Either the public opinion of one race must dominate, as that of the whites has done in India and the South, or the two races must co-operate so far as to develop a common public opinion. The latter is the only true democracy.

3. AMERICAN EXPANSION CONSIDERED AS AN HISTORICAL EVOLUTION.

BY SAMUEL L. PARRISH, ESQ., OF NEW YORK.

[Read Wednesday morning, September 6.]

In the fierce current of events which sweeps along the nations to the fulfilment of their destiny, the eddies and even the whirlpools must be recognized as incident only to the current itself.

There are those who call the battle of Manila an "accident," and fail to comprehend that Manila was but the logical sequence of four centuries of antecedent conditions to be readily traced upon the page of history.

It is my intention, then, to invite you to consider, in merest outline, three historical periods bearing directly upon the situation that we, the people of the United States, find ourselves confronted with, at the end of the nineteenth century, in our relations with the rest of the world.

First. The political condition of Europe at the end of the fifteenth century and the relations of the European powers toward each other at that time.

Second. The relations of the European powers to the western hemisphere toward the end of the eighteenth century.

Third. The relations of the United States of America to Europe and the rest of the world at the end of the nineteenth century.

If, in considering the first period, we look over the map of Europe at the end of the fifteenth century, just prior to the discovery of America, we find, roughly speaking, the following conditions, beginning with Spain in the south-west corner and then swinging around the circle to the point of beginning.

For seven hundred years Spain had been surely coming to her own again. During all that time the Arab invaders of the eighth century had been slowly driven back, the struggle leaving its impress, both for good and evil, upon the Spanish character.

Now the cross and now the crescent had been in the ascendant;

attribute this to the national policy towards the South during the reconstruction period.* We may agree with him in part and still believe, as I do, that the industrial competition just sketched was probably inevitable, and is another important factor in drawing the races apart. But, whatever be the explanation, the fact is undeniable. Under the slavery system the main motives in governing the negroes were personal loyalty and force, and the emphasis upon one or the other varied with the character of the work and of the owner or overseer. As the races have drawn apart, this feeling of personal loyalty has become feeble, and many of the whites have felt that the only alternative mode of governing the increasing number of criminals was force, and that the more speedily and surely force could be applied the greater its deterrent influence.

But, as the negroes have separated from the whites, they have drawn or been crowded together, and have come to feel a race unity and race pride, and are developing a race public opinion which may prove of great importance in controlling the negro criminal class. The existence of this negro public opinion, as distinct from that of the whites, is hardly recognized with sufficient clearness by the dominant race, and to illustrate it the argument must be amplified. This can best be done by the aid of a typical instance, and I have selected for the purpose the series of recent events at Palmetto, Ga., culminating in the death of Sam Hose.†

Palmetto is a town of perhaps six hundred people in a county which contains no place of much greater size. About two-thirds of the county's population are negro. In the early morning of Tuesday, Jan. 24, 1899, a fire broke out in the centre of the town, destroying the hotel, two stores and a storehouse, and seriously threatening half the town. Some citizens moved out their goods, through fear that the fire would spread, and in this way they, too, suffered losses. There was little insurance on the property destroyed, and the contemporary newspaper account‡ throws no light upon the place of origin or the cause of the fire. On the following Saturday morning, not long after midnight, a second fire occurred, by which twelve property holders suffered serious losses.

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* *Idem*, p. 4, col. 4.

† *Idem*, March 17, 1899, p. 1, col. 1.

but in 1492, the exact date of the discovery of America, Moorish dominion ceased on Spanish soil, and the cross floated triumphant from the Pyrenees to the Straits of Gibraltar. Thenceforward Spain enters upon her career as a consolidated kingdom and maritime world power. Thus we leave her for the moment to consider the condition of Italy.

In the fifteenth century Italy had been, ever since the fall of the Roman Empire a thousand years before, the prey of external foes and of internal dissension.

Once mistress of the world, ruling with imperial sway the whole basin of the Mediterranean, and extending far inland on every side to the farthest confines of the civilization of which she herself was at once the author and interpreter, she was not now even mistress of herself.

Rent into a dozen fragments, Italy was simply a congeries of small kingdoms, petty principalities and powers, papal states, grand-duchies and oligarchic republics, forever quarrelling one with the other. Of great men there were enough to adorn an empire; but, in the world drama about to open, Italy counted for nothing as a political factor.

Proceeding farther to the East, we come to South-eastern Europe. Here we find conditions that would indeed be startling did they exist to-day.

The Moslem, about to be driven forever from South-western Europe, had made his appearance, like harlequin in the pantomime, in the south-east; and the Christian powers had all and more than they could do to hold in check the rising tide of Mohammedanism.

Russia, as such, did not exist; and the inhabitants of that section of Europe, with the Tartar hordes on one side and the Turks on the other, found themselves between the devil and the deep sea.

The low order of their own civilization and their lack of sea power debarred them from taking any active part in the great events now looming on the political horizon. Retracing our steps toward the west and north, we now come to Central Europe.

Here, again, Italian conditions prevailed; for the Holy Roman Empire, the shadowy legacy of Charlemagne, was already in the state described later by Voltaire, for it was neither holy, nor Roman, nor an empire, exercising but a feeble authority over the

disintegrated mass of states and cities and temporal and spiritual lords-paramount of principalities. What foreign commerce existed was to be found for the most part in the hands of the Hanseatic League, a body without imperial aspirations, and asking only to be let alone, and to be allowed peacefully to follow its gainful pursuits in its own way without interference.

Such real authority as existed in the empire was about to be allied to Spain, thus increasing her power and prestige in her relations toward the rest of the world. In the fifteenth century there was in Central Europe no progressive, enlightened, consolidated empire like that of Germany to-day.

In our Western progress we next come to France. Here the conditions change; and, approaching the point of our departure, we find the general political situation broadly resembling that of Spain. Built upon the foundations of feudalism, the genius of her people, combined with that of their rulers, had made of France a fair kingdom, rich, homogeneous, and powerful, ready to take an active part in the struggle about to begin, and, from her position as a maritime power, prepared to do so in an effective manner.

Now crossing the Channel, we come to a country which we as Americans should never approach, either actually or in contemplation, except with a feeling of kinship; for, however bitter at times may have been our contentions, no broad-minded American, whatever his antecedent nationality, can ever regard England in any other light than as at least our political fatherland. Right royally as America has welcomed the Caucasian emigrant from every land, and important to our growth as have been these foreign accessions, it is nevertheless upon the foundation of the English idea of political, personal, and religious liberty that our own fair structure rests. At the end of the fifteenth century, then, England, too, was awakening to the new life about to dawn upon mankind.

The distracting Wars of the Roses had ceased and an astute sovereign in the person of Henry VII. sat in peace upon the English throne, ready to recognize and take advantage of the changed conditions resulting from the discovery of America, of gunpowder and of printing. With many of the qualities of a great ruler, Henry had, too, the commercial instinct, and may be properly regarded as the father of the English navy and merchant marine. What this navy accomplished against Spain nearly a hundred years later, in the time of Henry's grand-daughter, needs hardly to be recalled.

The above bare outline of European conditions discloses, then, the fact that at the end of the fifteenth century there were in the world but three civilized, consolidated, maritime nations ready and eager to contend for the prize about to be set before them through the genius of an Italian.*

It was, then, to be a struggle to the death between the Anglo-Saxon and the Latin, with the Gaul sandwiched in between.

And now in the beginning of the sixteenth century the great world drama opens, the issue fraught with momentous consequences for untold generations to come.

Spain was first in the field, and, backed by the vast resources of a great empire, kept so far in the lead for the next hundred and fifty years that France and little England were almost lost sight of, at least so far as actual territorial acquisition and profitable commerce were concerned.

Coming to the second period, let us now consider the position of the three powers just after the middle of the eighteenth century, following the conclusion of the Seven Years' War.

Spain and Portugal between them were still the undisputed rulers, so far as circumstances permitted, of the whole of South America, Central America, Mexico, and that vast region west of the Mississippi and south of Georgia which now forms so fair a part of the domain of the United States.

The North American Colonies, practically confined to the region east of the Alleghanies, as well as British North America, were English territory. The great West and North-west, now the granary of the world, was No Man's Land. The Indian and the buffalo roamed at will.

It was to require yet another generation finally to settle the question of actual ownership, and two or three to reduce that ownership to profitable possession. Time enough to dispute when there was something tangible to dispute about.

Little perhaps as it may have been appreciated at the time, it

* For the purposes of this short paper, and to avoid confusion, I shall consider Holland, though later in the field, as part of England, and Portugal as part of Spain. The Dutch character and theory and practice of colonization were for all essential purposes the same as those of England, while the same may be said of the relations of Portugal toward Spain, so far as those relations bear upon the progress and development of civilization in the New World. What the republic of Holland (though administered under monarchical forms) has since so wonderfully accomplished in the way of the successful ruling of an inferior race can best be studied in the history of Java. If five millions of Hollanders can bring peace and prosperity to about twenty-five millions of Javanese, I submit that eighty millions of Americans ought not to have a similar task over against about eight millions of Filipinos.

may now be seen that the consequences of the Seven Years' War, as determining the trend of antagonistic forms of progress over a vast area, were perhaps the most momentous in history.

France had dreamed of an empire comprising the whole of North America west of the Alleghanies, and later perhaps even also to the east. If a Norman duke could conquer old England, why not a French king New England?

Beginning with Canada and stretching over to the Mississippi, then down the great river to Louisiana, she felt sure that time alone would be requisite to drive Spain from North America.

Already Spain was in a state of industrial collapse, largely the result of the fanatical and short-sighted policy of a hundred and fifty years earlier, when the laborious and peaceable Moriscoes, representing the skilled labor of Spain, were driven from the country.

The astute statesmen of France must have foreseen that the disintegration of the Spanish colonies was at hand. But the fall of Quebec was the death-knell of France in the New World. A fitful reappearance, the result of Napoleonic complications, just antecedent to our Louisiana purchase, was her last expiring breath.

From becoming a dominating factor in North and South America and ultimate controller of the destinies of millions, this competitor for the prize of Columbus shrivelled, as with the touch of a magician's wand, into the possession of Martinique. The curtain is rung down on France; and England and Spain, the Anglo-Saxon and the Latin, Lord Salisbury's living and dying nations, stand facing each other alone in the western hemisphere. The sudden and grotesque reappearance and disappearance of France in Mexico at the time of our Civil War, that imbecile attempt of the third Napoleon to turn back the page of history, can be regarded only in the light of affording food for the laughter of gods and men.

Coming now to the third period, let us consider the development of the Americas in the present century.

The intolerable methods of Spain and Portugal have led to the inevitable result.

Colony after colony has revolted, and here within our own time Spain and Portugal have followed in the footsteps of France. ~~parallel~~, however, is not complete; for, whereas the posses-

sions of France fell to an enlightened power, capable of dealing with a new situation and of conferring upon the inhabitants of the conquered territory the blessings of civilization regulated by orderly government, the revolted Spanish colonies were left to their own feeble devices. Fitful and uncertain despotisms and oligarchies, masquerading under republican forms, have hardly been an improvement upon the old order.

The Central and South American situation was moreover complicated (and will doubtless for untold generations so remain) by the existence of a vastly preponderating aboriginal population incapable of self-government.

Unlike our North American Indian, this population is too peaceable and too much adapted to its tropical and sub-tropical environment to permit of evolution by elimination. This phase I shall consider later on.

Some years after the successful revolt of Mexico against Spain in the beginning of this century occurred our own logical and inevitable Mexican War. Unjust as that war was, under the narrower theory of international obligation, it but fulfilled the requirements of the dangerous but necessary doctrine of the "higher law." "To him that hath shall be given, and from him that hath not shall be taken the little that he hath." In other words, nations are the trustees of civilization. If they fail to make proper use of their opportunities, others better qualified will take their places. Such is the law of progress. The treaty of Guadaloupe Hidalgo was but the relentless execution of this law. I know of none today who advocate the return of California to Mexico upon the ground of the injustice of its original acquisition.

In the middle of this century, then, the United States fell heir, as residuary legatee, to the great possessions of Spain in the temperate zone of North America; and the curtain falls upon another act in the world drama that is being played before our eyes.

Our domain now extends from the Great Lakes to the Gulf, and from the Atlantic to the Pacific,—the fairest portion of the earth's surface, equalled, if at all, only by Europe, the mother of that Aryan civilization about to encircle the globe with its dominating influence.

At the end of the nineteenth century the struggle of four hundred years has been accomplished in the western hemisphere; and the English-speaking race, now at one in its aims, reigns trium-

phant, embracing, for the practical purposes of the future, Central and South America, as well as the territory in actual possession.

The battle of Manila has not changed, but only broadened the scope of the Monroe Doctrine.

European nations have not, and will not assume to dictate the policies of Mexico and the South American so-called republics as the result of the expansion of our domain in the East.

I have up to this point traced, necessarily only in barest outline, the conflict of the European powers for the control of the Americas.

The picture is only complete when we contemplate the work done by the other great branch of our race in Africa, Australia, India, and Egypt.

And now with the opening of the twentieth century the scene changes.

The domination of the heretofore unoccupied temperate zones of the earth, including a great area in the East, having been settled, another momentous problem comes to the front, the result of the progress of industrial civilization.

If you will take any carefully compiled book of international statistics and make a comparative table of the commerce of the world, you will, unless previously informed, be astonished at the part played by the tropics in furnishing those things requisite and necessary to sustain the industries of the temperate zone.

With the spread of industrialism, the result of man's increased dominion over nature, following upon the mechanical inventions of a mechanical age, tropical products have suddenly assumed an importance but little anticipated even fifty years ago.

With the sudden shrinkage of the world as the result of the improved means of intercommunication, far-off Cathay becomes tributary to our industrial empire; and just what this means in the future can best be appreciated by the consideration of the practical certainties connected with the increase of our own population.

At the beginning of this century the United States contained, approximately, say five millions of people. In a hundred years the five will have increased to eighty millions. Upon the same ratio of increase the end of the next century would see thirteen hundreds of millions of people in the United States alone. Obviously, such a result, for many reasons, is impossible. Take the ratio of increase for the future, however, as only about one-fifth that of the

past, and we still have a population of nearly three hundred millions in the United States in the time of the children of those now living. So philosophical an historian and conservative an observer of current events as Mr. John Fiske in his essay on "Manifest Destiny" puts the number as between five and six hundred millions.

Dr. H. S. Pritchett, superintendent of the Coast and Geodetic Survey, in an interesting comparative table, puts it at 385,000,000. Europe to-day, with a sustaining power not much exceeding that of the United States, and, with Canada included, much less, comfortably supports nearly four hundred millions; and the population of the world is not only increasing, but also rapidly tending toward equalization,—the result of cheap methods of intercommunication.

Three hundred millions of American citizens, speaking the same language and governed by the same law, dwarfs any aggregate heretofore contemplated.

The Roman Empire, at the time of its greatest extent, is supposed to have contained about one hundred and twenty-five millions of people and was ultimately and logically crushed under its own weight, aided in its downfall by our vigorous forefathers,—the outside barbarians,—in whose hands rested, from the fifth century on, for many centuries the physical force of the world. Happily, all this is changed; for, ever since war became a science, the Titan offspring of the brain of man at work in the laboratory and the machine shop, the sceptre of physical force has passed into the hands of civilization. Genseric and Attila, Genghis Khan and Timour the Tartar, are nightmares, not warnings. The "yellow peril" does not exist.

But note now the other differences. Rome was a congeries of civilized, semi-civilized, and semi-barbarous States, united by no common bond except the supremacy of Roman law (modified to suit national customs), backed by the mercenary legions.

Pro-consuls exercised despotic sway in far-distant provinces, weeks away from home communication.

Rome, with slavery as a corner stone, was without representative government, practically the invention, through centuries of trial and tribulation, of the English-speaking race. The printing-press, public schools, and general education, making possible public opinion, with its effect upon officials and the home government, were unknown to Rome. In other words, all the powerful

machinery of intelligent and responsible modern government was unknown.

Verres in Sicily two thousand years ago and Lord Curzon in India to-day represent the progress of a naturally dominant race in the art of governing a subject province. Compare their methods, and you have the secret of the future government of the outside world.

What, then, are my conclusions in regard to the duty of the people of the United States to-day?

Statesmen, though alive to the responsibilities of the present, are unworthy the name unless they look reasonably far into the future. They must build their foundations deep if they would support the inevitable political sky-scraper of the next generation. The rickety old three-story office building of fifty years ago, without elevator or telephone service, compared with the modern twenty-five-story structure, affords but a feeble contrast to the change that has come over the world at large in the same period of time.

Three hundred millions of active, commercially aggressive, and industrious American citizens cannot be bottled upon this continent. The inhabitants of the tropics never have and never will, unaided, develop orderly self-government of a character to enable them to make the most out of their possessions in the interest of the rising tide of industrialism, ever increasingly requiring, with increase of population, economy of production.

Shrink as we may from the task, the swift current of events has driven the United States into the forefront of the world's battle for racial and commercial supremacy.

The Philippines are but the entering wedge. As the great Pacific power of the near future, we must sooner or later bring China under our paramount influence, so far at least as naval power can accomplish that result. The longer we postpone the initiatory steps, the greater will be the sacrifice required of us to obtain a foothold.

The ultimate conflict will be between the autocratic idea of government represented by Russia and the democratic idea represented by England and America.

Even as applied to the domination of inferior races, the Englishman in India is a more attractive spectacle to American eyes than the Russian in Siberia and China.

The present cordiality of sentiment between England and America represents a recognition of this fact. Germany, France, and the other European and even Asiatic powers will exert their fluctuating influence from time to time upon the conflict as may seem best to them in their own interest at the moment. But in the coming grand struggle for world dominion they will exercise only an incidental and not ultimately dominating influence. Their limitations are set by their incapacity for expansion on a great scale, combined with the awkward necessity of protecting their own territory from inter-European aggression. England, Russia, and the United States already own more than half the earth's surface. Small bodies gravitate toward the larger and not toward each other. The highly trained English and Continental statesmen, accustomed from their youth up to the consideration of world problems and backed by the experience of centuries of inherited diplomacy, are much keener than our own in appreciating all these points.

Germany is too late in the race. Had she been a consolidated maritime kingdom in the fifteenth century, the map of the world would not be what it is to-day.

France is in decadence. The possession of Sahara and all the deserts of tropical Africa, with Madagascar and a piece of malarial Asia thrown in, cannot save her in the struggle.

In the great consolidated world of one or two hundred years hence the relations of France and even Germany to that world may well be those of Belgium and Holland to the Europe of to-day. The three things that must increasingly determine the destinies of nations are extent of territory, capacity to sustain population, and the character of the people.

In the United States we have a combination never before dreamed of, much less on the eve of accomplishment. If population and territory were alone requisite, then China would be great. If the character of the people were alone to count, then Holland would be a world power. But the North America of a hundred years hence will be a greater than China, populated by men at least the equals in character and accomplishment of the Dutch.

In conclusion, then, I maintain that we cannot shirk our duties and responsibilities. The English-speaking race has at last proved itself the masterful and dominant race of the world, and must control the tropics, as it already practically controls the tem-

perate zone; for the development of the two must in the future, ever increasingly, go hand in hand. For the United States to falter or turn back now would be a crime against civilization and entail upon the next generation a duty properly belonging to this.

In the great crises of our national life the instinct of the people always has been, and, while we retain our national character, always will be, a far safer guide than the sometimes learned and often timid arguments of the cultivated few. This thought gave Lincoln strength in his darkest hour of trial.

In our late Civil War the highest and most respectable legal talent was not wanting to show that, if the war could not be conducted under the Constitution, it should not be conducted at all. As that war was brought to a successful conclusion, and one, too, ultimately satisfactory to both sides, so will our colonial possessions finally adjust themselves to their environment.

Many will be the blunders committed, deep from time to time may be our humiliation, and bitter will be our experience; but upon the successful solution by the American people of the problems incident to expansion now set before them must depend the future progress of the world.

The honest and intelligent domination of the inferior races is the task set before us. The sobering influences incident to the responsibilities and anxieties of a similar task, successfully accomplished, has distinctly improved the English national character in the past hundred years.

Let our inspiration come, then, from the contemplation and emulation of England in India and Egypt and Holland in Java. The difficulties of our perplexing negro and other problems will be neither increased nor diminished by a manful attempt to solve the greater problem of the East.

Lust of power for the sake of its wilful exercise never has been and I believe never will be a characteristic of the American people. An honest desire of the vast majority to do the right as God gives them to see the right always has been, and will continue to be, the guiding principle of a great people, constituting—if you will—an empire, but an empire composed of active, intelligent, industrious, self-governing citizens, the like of which has never been known, and upon which rests the hope of the world.

I know that in the busy world of to-day classical comparisons are somewhat out of date; and yet it may not be inappropriate

to recall to mind that nineteen hundred years ago three men, Roman citizens, divided the world among them,—Antony, Lepidus, and Octavius. Lepidus took Northern Africa and Spain, Antony took Egypt and the East, and Octavius took Italy and the rest of the world. The lives of these men, their hopes, their fears, their ambitions (and, I may add, their hatreds and their loves), have been depicted, not only in the history of the time, but in the rich imagery of Shakspere's play of "Antony and Cleopatra." But it was not many years before Octavius, by force of arms, became Cæsar Augustus, sole ruler of the world. And then it was that the gates of the temple of Janus were closed, which signified, under the Roman law and custom, that war had ceased, and that universal peace reigned throughout the empire. And then, too, it was that the Prince of Peace was born.

And so, as I look into the future, I see again the world divided into three; but this time it will be three nations, and not three individuals, which will divide the world among them, if not in actual territorial division, at least in dominating political influence. And those three nations will be—in fact, are—named in the inverse order of their ultimate political importance: first, Russia, that grim spectre of the north that seeks to enfold in her chill embrace the destinies of the world; second, Great Britain and her colonies, a vast and magnificent federated empire that will be standing for stability and order; and, third and last, the United States of America. And the last shall be first.

And, as I seek to draw aside the veil still more and gaze still further into the great hall of time, peering down through the corridors of the centuries, I see again Cæsar Augustus, sole ruler of the world. But this time it will not be a single individual. But Cæsar Augustus, sole ruler of the world, will be the imperial democracies of the English-speaking race, ruling with directing mind and guiding with sympathetic, outstretched hand a Christian world bound together by the iron bands of order, of justice, and of peace.

And this is no idle dream, for you yourselves have seen the beginnings of these iron bands forged in the fire and smoke of battle before your very eyes within the year last past; for the guns of Dewey's and of Sampson's fleets were but the instruments of progress in the hands of God.

4. PRINCIPLES AND AIMS OF THE CON- SUMERS' LEAGUE.

BY MRS. FLORENCE KELLEY, OF NEW YORK CITY.

[Read Wednesday morning, September 6.]

The underlying principles of the Consumers' League are few and simple. They are partly economic and partly moral.

The League acts upon the proposition that we are all consumers all our lives. From the newsboy who fosters the cigarette and chewing gum trades, (and is himself fostered by our selfish neglect to give our preference to some one-armed adult head of a family), to the self-conscious patrons of the Kelmscott sheets, we all make daily and hourly choice of the bestowal of our means. And, as we do so, we help to decide, however unconsciously, how our fellow-men and women and children shall spend their time in making what we buy. Few of us can give much in charity: giving a tithe is, perhaps, beyond the usual custom. But, whatever our gifts may be, they are less decisive for the weal and woe of our fellows than are our habitual expenditures. For a man is very largely what his work makes him,—an artist, a hand-craftsman, an artisan, a drudge, a newsboy, a sweaters' victim, or, scarcely less to be pitied, a sweater. All these and many more classes of workers exist to supply the demand that is incarnate in us and our friends and our fellow-citizens.

Those of us who enjoy the privilege of voting may help once or twice in a year to decide how the tariff, the currency, and the local tax rate shall be adjusted to our industry. But all of us, all the time, are helping to determine what industries shall be carried on at all and under what conditions.

Broadly stated, it is *the* aim of the Consumers' League to contribute toward moralizing this decision; by gathering information which may enable us to decide with knowledge; and by appealing to the conscience, so that the decision when made may be a righteous one.

The Consumers' League, then, acts upon the principle that the consumer ultimately determines all production, since any given article must cease to be produced if all consumers ceased to purchase it, as in the case of the horse-hair furniture of the early part of this century, which has now virtually ceased to be manufactured. On the other hand, any article, no matter how injurious to human life and health the conditions of its production, or with what risk they may be attended, continues to be placed on the market so long as there is demand for it; e.g., nitro-glycerine, gunpowder, phosphorus matches, mine products of all kinds.

While, however, the whole body of consumers determine in this large way, and in the long run, what shall be produced and what shall cease to be produced, the individual consumer has at present, for want of organization and technical knowledge, no adequate means of making his wishes felt, of making his demand an effective demand.

A painful type of the ineffective consumer may be found in the colony of Italian immigrants in any one of our great cities. These support at least one store for the sale of imported macaroni, vermicelli, sausage (Bologna and other sorts), olive oil, Chianti and other light Italian wines, chestnuts and cheeses. These articles are all excessively costly by reason of the transportation, the import and duties involved; but the immigrants are accustomed to them, and prefer to eat a less quantity of these kinds of foods rather than a greater abundance of the foods which are cheaper and more accessible. The pitiful result is that the importer buys the least possible quantity of the real Italian product requisite for purposes of admixture with native American adulterants. The most flagrant example of this is in the case of Italian olive oil, of which virtually none really pure is sold at retail. What the Italian immigrants get is the familiar Italian label, the well-known package with its contents tasting more or less as the Italian product used to taste at home in Italy. What the actual ingredients may be they know as little as we know when we put our so-called butter and our so-called maple syrup or honey on our hot cakes at a city hotel. The demand of the Italians for native Italian products, although large, persistent, and maintained at a heavy sacrifice on the part of the purchasers, is not an effective demand, because the immigrants have neither the knowledge nor the organization wherewith to enforce their wishes.

That knowledge alone, without organization, is not enough to create an effective demand is well illustrated by the experience of a conscientious shopper of my acquaintance, in Chicago, some years ago. Deeply stirred by an eloquent appeal on behalf of the sweaters' victims and their sufferings, she set out to free her own conscience by buying only goods made in factories. She began in the great department store in which she had always fitted out her boys for school. The salesman duly assured her that "all our goods are made in our own factory." She, being a canny person and well instructed, asked for a written statement of that fact, signed by a member of the firm, to be sent home with the goods. It was never sent, though this was an unusually good customer, and the firm was in the habit of accommodating her, if possible. This process she repeated in several stores, besides some of the most reputable outfitting establishments. In time it became clear to her mind that she could not free her conscience alone and unaided. Her plight well illustrates the case of the individual consumer, enlightened, but unorganized, and therefore ineffectual.

The prosperous purchaser, able and willing to pay for the best that the market affords, is prone to assume that the high price which he pays for his goods affords assurance that they are cleanly made, and that a fair share of the high price goes in the form of wages to the workman who makes his garment. How far this is from being a safe assumption is shown by a personal experience of my own. During the terrible small-pox epidemic which ravaged the clothing workers' district of Chicago, in 1894, I was once looking for a cigar-worker who was said to have small-pox in his family. Quite by accident I stumbled upon a tailor, newly moved into the house, and not registered either with the city or board of health, or with my department. (I was at that time responsible head of the State Factory Inspectors.) In his shop, which was his dwelling, there was a case of small-pox. There was, also, a very good overcoat, such as gentlemen were paying \$60 to \$75 for in that season. In the collar of the coat was a hang-up strap, bearing the name of the leading merchant tailor of Helena, Mont. The history of the coat was as follows: The tailor in Helena, Mont., had had in his window samples of excellent cloth, from which the unsuspecting customer ordered. The tailor took the customary measurements, and telegraphed them with the sample number of the cloth to the wholesaler in Chicago, whose

agent he was. The wholesaler had had the garment cut in his factory, and sent it on to the house in which we found it. Only by the sheer accident of our finding the tailor and the small-pox patient while looking for an entirely different person was the customer in Helena saved from buying small-pox germs in his expensive garment. Since this was only one of many cases which came to our knowledge of custom tailors driven by extreme poverty to conceal the dreadful fact of the presence of small-pox in their families through the fear of losing a few days' or a few weeks' wages, it follows that the prosperous purchaser was not even entitled to an easy conscience on the score of wages paid to the man who did his work. Intrinsically, the position of the prosperous purchaser in this case was much like that of the Italian immigrants. Like them he was paying a price which entitled him to clean goods. Like them he had neither the technical knowledge nor the organization wherewith to protect himself.

Although cases similar to the foregoing, though not always so sensational, are known more or less vaguely to thousands of shoppers, yet the question is asked from time to time why it is necessary to have another volunteer society, whether the needs of purchasers and workers cannot be sufficiently protected by the State and municipal governments enforcing existing statutes and ordinances? The answers to this question are manifold.

One answer is that there is a distinctly demoralizing influence at work through reckless advertising, against which, hitherto, no adequate counter-influence has been at work. Since the great body of sellers have no stable demand upon which they can count with certainty, they have recourse to creating a demand by devices of their own, chief among which is advertising. This can, however, usually lay no claim to instructing the purchaser, but is meant to stimulate, persuade, entice, incite, and induce. Much of it, of which the patent medicine advertisement may serve as the type, is aimed directly at the ignorance of the purchasing public. Nearly all advertising is directed to the cupidity of the purchasing public, and, therefore, offers primarily cheapness.

Now the National Consumers' League has no objection to cheapness, such as is brought about by the ten-needle sewing-machine, driven by the dynamo, and sewing garments cut one hundred and forty-four at one time by the electrical cutting machine. What it does object to is that cheapness which is attained by

making children run foot power machines in tenement house kitchens in competition with the electrical installations.

The National Consumers' League aims, therefore, to afford information whereby the purchaser may attest the accuracy of the advertisements, at least in certain important respects. How great is the need of such information may be inferred from the fact that the knee pants sewed in the filthiest tenement-house bedrooms in Chicago frequently carry little tags carefully sewed into the belts bearing the woven words "New York," though they are made in Chicago by Bohemians, Russians, and Italians, many of whom have never seen New York. In Boston, not so very long ago, there lay on the desk of one of the factory inspectors the half-page advertisement of a famous firm, with the legend, "All our goods are factory-made: we handle no sweat-shop goods." Beside it lay the official notice of the inspector that goods belonging to the firm, found that day in a tenement house in which there was infectious disease, must be left where they were, pending disinfection.

Another answer to the question why such a society is needed is this. Our legislation is by no means uniform throughout the States; and the righteous man in Massachusetts, living under the best labor code in the country, enforced by the most vigilant and efficient factory inspectors, is in danger of buying goods made in infectious shops, under the sweating system, which is in full blast and is daily increasing in extent and intensity in Greater New York, quite as much as the Montana purchaser was in like danger from the Chicago shops. For, under the Constitution of the United States, no one State can forbid the importation of goods made in another State, however far the standard of conditions of manufacture in that State may fall below its own. Therefore there seems to be ample room for a national society to promote uniform factory laws throughout the great manufacturing States. Nor is this all.

The State bureaus of labor statistics, the boards of health, State and municipal, and the State factory inspectors publish information for the enlightenment and instruction of the public. But very little of this information has hitherto been published in such forms as to serve the purposes of the individual purchaser. If I have read the reports of all these officers, I am not only in as great danger as before of buying glucose for sugar, acetic acid

for vinegar, and paper in the soles of my shoes. I am in as great danger as before of buying small-pox, measles, infectious sore eyes, scarlet fever, and a dozen forms of skin disease in my new garments. For not one of these officials publishes the list of kitchen tailors to whom the merchant tailors give out their goods to be made up, just as not one of them can possibly give information whereby adulterations of food-stuffs can be detected in the private kitchen. There is the very greatest need of a private society equipped for the investigation of certain specified branches of industry, to guarantee the best establishments to the purchaser, to use all such information as the already existing agencies afford, and continually spur them up to make their information more practical and specific, thus affording to the individual purchaser that specific knowledge which, as we have seen, he so sorely lacks.

It is, perhaps, for want of just such a volunteer body that the dissemination of official information concerning the conditions of manufacture has, hitherto, been largely ineffectual. In vain has the fact been printed that the fashionable chocolates of the day are made by Italian children of habits so filthy that physicians, asked by the factory inspectors to examine them as to their fitness to work, under the factory law, required the children to bathe, have their hair cut, and change their clothing before proceeding to the examination. The chocolates are as fashionable as ever. In vain has the fact been printed that the bouillon placed on the market by certain of the famous Chicago packing firms is boiled in such close proximity to their fertilizer-storage that the factory inspectors are apt to fall ill after every inspection. The bouillon continues to be served at the luncheons and dinners of the socially aspiring, and is advertised as especially suitable for the aged, the invalid, and for delicate children. In vain is the fact printed, year after year, that the sweaters and their victims, after working fourteen, sixteen, and eighteen, even twenty hours a day in their rush season, starve through a long vacation at their own expense; that consumption, formerly almost unknown among the Russian Jews, is now commonly known as the "tailors' disease," having become distinctly characteristic of the sweaters' victims, in consequence of the inhuman conditions of their work. Official statements of all these matters, safely buried in annual reports, do not reach and influence the masses of purchasers.

Incidentally, it is also true that a community is likely to enjoy

the benefits of a more rigid enforcement of its laws and ordinances just in proportion as it co-operates through volunteer organizations with the officials who write these reports; for, in the absence of such tangible evidence of the presence of enlightened public opinion, the story of honest officials hounded out of office, of weak ones bribed, and of incompetents permanently retained, is one of the black chapters of industrial history.

The National Consumers' League acts upon the proposition that, to constitute an effective demand for goods made under right conditions, there must be numbers of consumers sufficiently large to assure purchases steady and considerable enough to compensate for the expense incurred by humane employers. For this purpose the National Consumers' League undertakes an especial investigation of a single sharply defined branch of industry as an experiment as to the power obtainable for the purchaser through knowledge and organization. To manufacturers in that branch, (women's white muslin underwear), the National Consumers' League offers the use of its label, promising to promulgate in all legitimate ways both the label and the standard upon which it is based, to organize, as rapidly as possible, leagues, both State and local, for the purpose of stimulating intelligent interest throughout the country in the conditions of manufacture, and of inducing the purchasing public to give the preference to those employers whose work is done under humane conditions.

In Great Britain, where the co-operative movement has grown to gigantic proportions, the purchasers, by pooling their interests, have been able to employ expert buyers who can stipulate in advance as to conditions of manufacture as well as prices and qualities, and obtain in return for the stable demands which they represent, goods produced by manufacturers aware in advance of the wishes of this part of their purchasing public. In this country, in the absence of such an organization, supply and demand are left to regulate themselves automatically, ruining in the process large numbers of merchants and manufacturers who guess unsuccessfully as to the wishes of the public, involving the purchasers in the consumption of immense quantities of adulterated goods made in the attempt to approximate to the wishes of the unorganized purchasing public, and driving down below the living point the wages of the weaker portion of the employees who produce and distribute the goods.

The National Consumers' League recognizes the fact that this blind guessing, inferring, deducing the wishes of the consumer from his actions in the past, and present, to his probable wishes in the future, is not inevitable in consequence of any natural or social law. All factory legislation is enacted in recognition of the fact that the human relations of demand and supply are susceptible of beneficent modifications. The co-operative movement is a farther witness to the same truth. The Consumers' League, the latest comer in the field, aims at still another demonstration of this truth.

The standard of requirements for factories engaged in the manufacture of women's white muslin underwear, adopted for the present, embodies only three conditions; and these are already realized in the best factories which we have found in that branch of manufacture. These requirements are, that all goods must be manufactured on the premises by the manufacturer to whom the use of the Consumers' League label is granted; that all the requirements of the State factory law are complied with; that no overtime is worked; that no children under sixteen years of age are employed.

Since the exodus of manufacture from the home, the one great industrial function of women has been the function of the purchaser. Not only all the foods used in private families, but a very large proportion of the furniture and books, as well as the clothing for men and boys, is prepared with the direct object in view of being sold to women. It is, therefore, very natural that the first effort to educate the great body of miscellaneous purchasers concerning the power of the purchaser should have been undertaken by women among women on behalf of women and girls. Having proved successful, within moderate limits, in that field, it is now extending among people irrespective of age and sex, and is asking the co-operation of learned bodies such as this.

The first effort in this country was made by two ladies, Mrs. Charles Russell Lowell and Mrs. Frederick Nathan, in New York City, in 1890. They selected two stores in which the treatment of the employees seemed more than usually humane; and, setting forth the good points of these stores as their standard, they wrote to fourteen hundred storekeepers on Manhattan Island, inquiring whether they wished to arrange the work in their stores in conformity with the standard, and have their establishments included in a projected White List. Of the fourteen hundred, two re-

sponded favorably. From that modest beginning the present White List of stores has grown up, year by year, until it now embraces the thirty-five leading retail stores in New York City. For the two ladies proceeded to organize their friends and enlist others; to bring their growing constituency to the attention of storekeepers; to circulate their White List and the standard on which it was founded; and to educate public opinion as to the power of the purchasers to determine the conditions of labor in the stores.

The Consumers' League of New York City, dealing exclusively with the stores on Manhattan Island, made its appeal exclusively to the conscience of the purchasers. In asking them to give the preference to the stores on the White List, it stated its purpose of encouraging humane employers to continue in their course, and of inducing others to imitate them. The success attending that appeal has encouraged the league to enter upon its more extended field of action, and, incidentally, to broaden the scope of its appeal. The National Consumers' League now asks that purchasers by insisting upon buying goods bearing its label will discriminate in favor of those manufacturers who treat their employees humanely, so far as the conditions of business under the competitive system permit, and that they will do so both for the sake of the employees and also for the sake of promoting that form of manufacture which is most wholesome for the whole community in preference to conditions in which danger of spreading infection is constant and considerable. The appeal is still, as before, on behalf of the employee; but it is also on behalf of a much larger constituency,—the whole purchasing public.

For, clearly, it is also a social duty to promote that form of manufacture which tends toward wholesome products, made under right conditions, rather than the sweat-shop with its dangers to the family in which the work is done and to the purchaser who may buy all the diseases to which reference has been made in the foregoing, despite the glib assurance of the salesman that "all our goods are factory made, produced in our own factory."

Moreover, the present appeal of the National Consumers' League is of great value to those employers who care to meet their employees as self-respecting people employed under reasonable conditions, and paid wages in proportion to the value

of their work. Many such employers have greeted the League with cordial welcome. One proprietor, whose factory has been known for forty years as having most carefully selected employees, unusually intelligent, and in surroundings rarely desirable, on being visited by a representative of the League, stated that this was an aspect of his factory in which the public had not seemed to be interested. The proprietors of such factories sustain the constant, intense pressure of the competition of others who have a lower standard; and they need and welcome the conscious support, moral and financial, of the League. One practical demonstration of approval and appreciation on the part of enlightened and humane manufacturers is the offer to bear the expense of printing the labels and attaching them to the product. Another is the help given by manufacturers of extensive experience in drafting the contract to be used, and many various designs for the label, from among which the one now in use was selected. As the League grows in numbers and influence, this moral support to the humane employer may be expected to stimulate the spirit of emulation in others who have hitherto been guided by the desire for cheapness rather than for goodness in the arrangements of their factories. This has been noticeably the effect of the New York City League, the most enlightened employers having been the first to meet its standard of requirements, and others hesitating for years, but finally coming to the point of making the required concessions.

Recognizing that its work must be one of organization and education, the League has sought the co-operation of the great educational institutions. Professors Taussig and Ashley of Harvard, Seligman and Clark of Columbia, Henderson of Chicago, and Coman of Wellesley have been advocates of the League and its work. The first four named are vice-presidents of the local leagues in their own States, while Professor Coman is an active member of the Executive Board of the National League. The American Association for the Advancement of Science was induced to discuss at its recent annual meeting at Columbus, Ohio, a paper on the "Power of the Consumer Economically Considered," and the American Academy of Political and Social Science devoted a session to the subject of the League itself, and published the discussions in its Annals. The Association of Collegiate Alumnæ at its annual meeting in October discusses a paper

on the "Teaching of Economics in the Colleges embraced in this Association with Especial Reference to the Theory of Consumption." The Consumers' League seeks, also, the co-operation of the women's clubs, the General Federation of Women's Clubs having voted to devote the industrial session of its next meeting to the Consumers' League and its work, with a view to spreading it throughout the country, in all the clubs. The League also asks the individual clubs to discuss the subject, and the State Federations to place it on programmes of their annual meetings. A student of the University of Chicago, having finished her thesis and having some time to spare before taking her examination for the degree of doctor of philosophy, spent her Christmas vacation w^rk as saleswoman in two department stores in Chicago, in order to ascertain the real wages, hours, and general conditions of work in such stores in that city. Her report of her experiences and observations, from day to day, has been published in the *American Journal of Sociology*. This lady, Miss Annie MacLean, will be a member of the faculty of the University of Toronto, Ontario, during the coming year. She will not only teach economics from a modern standpoint, but will emulate the professors already mentioned in laying especial stress upon the theory of consumption.

In general, the power and usefulness of the National Consumers' League will depend largely upon the intelligence and active work of its local organizations, and the degree of co-operation which these succeed in enlisting on the part of the general public. At present the League points out that consumers, even when unorganized, have power to put an end to the production of any given goods by refraining from purchasing them, to promote the production of others by demanding them. When organized, even very partially, consumers can and do decide, within certain limits, the conditions under which the desired goods shall be produced. Consumers have, however, done neither of these things in an orderly and enlightened way, except so far as co-operative buying has been practised, and the practice of adulteration of food products limited by legislative measures procured by the efforts of consumers. The power of the purchaser — which is, potentially, omnipotent — becomes great in practise, as shown by his consciously getting his own way, only in proportion as he becomes enlightened, organized, in direct communication with the producer,

exactly informed concerning the conditions of production and distribution, and able thus to enforce his own wishes instead of submitting his will to the enticement and stimulus of the advertising seller.

Briefly stated, by way of résumé, the aim of the National Consumers' League is to organize an effective demand for goods made under right conditions. As means to this end, it endeavors:

1. To investigate existing conditions of production and publish the results of its investigation.
2. To guarantee to the public goods found to have been made under right conditions, by attaching to them its label.
3. To organize bodies of purchasers for the promotion of such investigations and for promoting the purchase of goods made under satisfactory conditions.
4. To co-operate with and encourage in every legitimate way those employers whose work is done under humane and enlightened conditions.
5. To procure further legislation for the protection of purchasers and employees.
6. To co-operate with the officials whose duty it is to investigate the conditions of production and distribution or to enforce laws and ordinances dealing with those conditions.
7. To appeal to the conscience of the purchaser as an offset to continual appeal of advertisers to the credulity and cupidity of the public.

5. PAST AND PRESENT REQUIREMENTS OF PRISON SCIENCE.

REMARKS IN OPENING A DEBATE.

BY F. B. SANBORN, CHAIRMAN OF THE DEPARTMENT OF SOCIAL ECONOMY.

The chorus in the Greek tragedy of Antigone, where the modern spirit breathes through the classic forms more vitally than in most of those masterpieces of Attic genius, exclaims at the beginning of one of its dithyrambic chants,* —

“Many marvels mortals scan,—
Nought more marvellous than Man.”

Then it begins to recite the progress made by mankind in civilization,—power over the waves of the sea and the fruitful furrows of the land, gained by this wise and artful creature, who learns speech and airy thought, subdues huge brutes, captures light-minded, light-winged birds, contrives against winter frost and summer rain, and many future exigencies, but cannot guard against disease and death, with all his craft and traditional accumulation of knowledge. It is the same with mental and moral diseases which thwart and arrest the triumphs of mankind. Our race has been slower to deal with these than with the physical circumstances which high civilization so completely overcomes. It is but a few decades since we got a glimpse into the true way of treating the insane. The prevention of insanity is still far from our achievement, however much it may be talked and written about. So, too, with the prevention and cure of crime. It is less than a century since we have learned even passably the best methods for this; and prison science is still in its infancy, so far as the world at large is concerned. Pathetic and humiliating is the tardy advance made in this direction. Very provoking to the enlightened are the dull indifference and frequent hallucination of the community in regard to the treatment of criminals. Something has been learned

* Sophocles, *Antigone*, ver. 334 to 375.

in the way of prevention, by the early training of children otherwise exposed mainly to criminal experiences; but how few are the prisons in which the adult convict meets with a training adapted to his sore need, and to the safety of the community that arrests and believes it "punishes" the offender!

Gradually, however, and in regard to a large class of criminals, (the so-called "first offenders") there has grown up, most rapidly in America, what may justly be called "Prison Science." Its best examples are in the men's prison at Elmira, which is the outgrowth of Mr. Brockway's half-century of experience in controlling and instructing convicts, and the women's prison at Sherborn in Massachusetts, lately under the stimulating and inspiring government of Mrs. Johnson. Others have originated or imitated ideas for the scientific treatment of prisoners and have put these into practice in their own establishments; and such prisons are increasing. But the two just named have developed these recent ideas successfully, and are serving as a warning to many and a model to more in the difficult and much misconstrued task of giving convicts a chance to return to the community whose intimacy they have forfeited. As yet the criminals of longer habituation in guilt have come but little under this new development of prison science, except that they now receive, in some States, an added sentence for the proved fact that they are old offenders; but the tendency is, where crime is best understood, to establish a small class of incorrigibles, for whom perpetual imprisonment is the sentence. This would be on the theory that they can never safely be returned to the community, upon which they are found to be perpetually preying, with no reasonable hope that they can be cured of their evil habits. What, then, were the past requirements of prison discipline, upon which our grandfathers insisted, as they began to remedy (under the impulse given by Howard and the early reformers) the enormous abuses of the convict system of the eighteenth century?

1. In the first place, physical and moral sanitation, of the most elementary sort; in the place of indescribable filth and jail fever, with alternations of riot and starvation in food, that there should be ventilation, bathing, and regularity in diet and occupation or exercise. For promiscuous association between the depraved and the comparatively innocent, separation by classes was demanded; and then, pushing a good principle to extremes, isolation by day

as well as by night, or the so-called ‘ Separate System,’ to mitigate the cost and evils of which the Silent, or Auburn, System was set up, in some respects more unreasonable than the rigors of the Pennsylvania System. These were the methods prevalent in the more advanced communities when I began to study the prison question in 1864.

2. For instruction to convicts, religious exercises and conversation, with prison libraries of rigidly selected and profoundly dull books,— the Bible always excepted, which was generally found, and in itself a library of serious entertainment, when the prisoner could read it,— which was by no means always the case, even in New England, where reading and writing almost came “ by nature,” as Dogberry says. Schools, if existing or proposed, were but for short hours, infrequent, and without method or aught but accidental results. Prison visitation by the ostensibly good was the specific in the separate prisons, its model being the gospel intimation that to visit the sick and the imprisoned was a Christian virtue,— as it certainly is,— but upon far other terms than in the ages of indiscriminate tyrannical imprisonment, when the chief criminals were the men in places of power.

3. For labor in prisons those occupations were chosen which were especially hard, and could not promote the convict’s self-support on going forth. Care was also taken that he should not learn engraving and printing, lest he should be thus qualified, at the expense of the public, to join the brotherhood of counterfeiters, then much dreaded by the community, which lay unguardedly open to falsifications of the currency in this country. In England, “hard labor” got to have the meaning of useless labor, like turning a crank, where there was no use of the power produced,— the most deadening and soul-stifling manual occupation that can be fathered on that Evil One who

“ Finds some mischief still
For idle hands to do.”

This kind of toil was reckoned among the “deterrent” influences of imprisonment, upon which much stress was laid, although nobody could see, from the record of reconviction, that any rascal was deterred from any crime by dread either of the stone-yard or the inanimate prison chaplain.

No doubt these substitutes for the misery and vice described by

Oglethorpe and Howard, and sought to be cured by Bentham, were a great improvement on what preceded them; but they did not prevent the constant increase of crime, and still less did they reform the criminal. Accordingly, men of genius began to devise another method, which, though now applied to first offenders with much success, was first tried by Alexander Maconochie in Norfolk Island with the worst class of English and Irish felons, where it produced results worthy of notice. It was next introduced by Sir Walter Crofton — a man without genius, but of rare executive talent — in the Irish prisons.

This experiment began in 1854. At that time, and for some years before, a young American of Connecticut, and first engaged in the State prison of Wethersfield (Mr. Brockway), was going through his 'prentice years of prison management, at first under a skilful teacher of the old methods at Wethersfield and Albany, (Amos Pillsbury) and then at the head of a small county prison in Rochester, N.Y. Like Captain Maconochie, he is a man of genius. Like Captain Crofton, he is a man of great practical talent. And it is to him more than to any other person that we owe the initiation and development of prison science during the last thirty years. From Rochester he was called to Detroit, from Detroit to Elmira; and at each remove he added to his ingenious mechanism, inspired by a philanthropic but disciplined soul, for recovering the criminal from his chronic malady of law-breaking. He has changed the prison to a reformatory, and has made of the reformatory, not a mere place for theories and sermons, but a school, or, rather, a college of manual, mental, and moral instruction. And he has done this by means and upon principles which can be introduced elsewhere, and have been used in many other prisons in America. He has made virtue teachable, which Socrates wished, but doubted.

Virtue is more teachable when women are the instructors and exemplars; and to Mrs. Ellen Johnson, whose untimely death we all lament, the world is indebted for a special development of this same new prison science for the rehabilitation of criminal women, — a task always difficult, and perhaps never more effectively performed than by Mrs. Johnson at Sherborn. Proceeding on the same general principles as Mr. Brockway, she adapted the discipline and instruction to women, — varying them more in appearance than in reality from those so long acted on at Elmira, — and

the result has justified her choice of means. Wishing to obtain for our discussion the most recent views of Mr. Brockway, I wrote to him in August, and have the two following letters:—

ELMIRA, N.Y., Aug. 28, 1899.

HON. F. B. SANBORN, United States Hotel, Saratoga, N.Y.:

Dear Mr. Sanborn,— Replying to yours of the 21st in which you ask me to remark upon "The Present Tendency in Prison Science," I have to say, briefly:—

The tendency seems to be to science, neither severity nor sentimentalism in the treatment of prisoners. The thought of the leaders is undoubtedly considerably in advance of current public opinion. It is more and more appreciated that the average convicted criminal is not so different in his moral nature and possibilities as he is different in his instinctive moral behavior as a member of society. He may or may not be specially wicked above others of his class, who have wit enough to be wicked within the requirements of the law, but the essential difference is that he overrides the bounds of legal requirement. This may be from different causes, be it hereditary degeneracy, influence of unfavorable early circumstances, or ignorance, with deficient power, as well as an indisposition to apply himself, and so produce, of his own legitimate effort, the means for satisfactions.

For his recovery to industry and orderly behavior the tendency of our process is more to training, less to preaching or persuasion. The whole human organism is usually out of adjustment; and he needs physical renovation, improvement of nervous tone, and so of power. More and more attention is given to this initial and necessary process of requirement. The prisoner nowadays is not studied with the view to discover either the fact or the scope of his free agency. He is, if degenerate, also uneducated, in the sense that he is not trained to self-management and the habit of industry and reasoning required for safety in the competitions and temptations he must meet, when free.

We have prisons, but more and more reformatory prisons. A dangerous tendency has been to emphasize the "reformatory" in the common acceptance of the term "reform,"—a magical or miraculous instantaneous moral revolution of character,—and to forget that the ideal reformatory for adult felons is also a prison,—a dangerous tendency, oftentimes a master menace to prison science. With the surrender of punishment as the purpose of imprisonment, there has come a neglect to impose and enforce the necessary conditions of training, because, usually, the prisoners dislike to be trained. They would avoid the reluctant or painful practices by which new habits are formed and old ones discarded.

The newer prison science supplies individual treatment to all. When the prisoner is received, he is closely scrutinized, and a plan of treatment adopted with the view to fit him for release. The study at the commencement and the treatment all along are almost exclusively for this end. The preparation accomplished is supervised and tested when the prisoner is released on parole.

The history of a prisoner discharged on parole Wednesday, the 23d of

August, 1899, fairly illustrates a result of the training process in a modern reformatory prison. Cons. No. 6,319, nineteen years old, received in January, 1894, grand larceny, first degree, maximum ten years. Both parents dead many years then; three sisters and two brothers, of whom he had no knowledge at all, excepting that one sister was an epileptic and one brother was then a horse-dealer. His parents could but merely read and write, and the family had no savings. The prisoner, at a very early age, was sent to Drumgold's Catholic Home, where he remained seven years; afterward was eight months or a year at the Westchester Protectory, and at least once imprisoned in the City Workhouse. He had no family life, having spent all his years in institutions or as denizen of "furnished rooms" in New York. He was in his crime associated with another youth of about the same age and social circumstances, his companion in the Protectory and in the workhouse. The recorded estimate of his moral susceptibility and general sensitiveness at his admission was zero. He was, on admission, after the usual period in the gymnasium, assigned to appropriate classes in the school of letters, and to learn the shoemaker's trade.

The first three years the prisoner made a rough passage of it, alternating between the initial grade and the convict grade below; and for three months or so he was in the third grade of incorrigibles. The last two and a half years he made a more creditable record, and latterly, for the last year and a half, a most excellent one. His record shows the first three years 39 very serious, 185 derelict, and 120 minor demerits. The last two and a half years the total demerit is for 5 serious offences, 77 derelicts, and 56 for minor offences; and the most of them during the last two and a half years were in the first year of that period. Latterly his record has been excellent and well-nigh perfect.

He graduated in his trade, he covered the whole field of educational course here in the Reformatory, and during the last winter was a member of the special academic class studying and debating the topic "Political Economy." He is, of course, five and a half years older than when admitted, now nearly twenty-five. He has been for many months employed as an instructor in the manual training department here, where he was faithful and efficient; and, on reaching New York, he found at once, with some assistance by the Prison Association, employment at his trade.

He has grown from a homeless metropolitan street gamin, impulsive and reckless, to a man self-regulated, steady-minded, intelligent, and with the equivalent of an academic education, as under the public school system.

I append two notes written by the prisoner after his parole was authorized, when in the deep of discouragement because his efforts to procure employment had failed. The last one is in response to my chidings.

"*Supt.*: I am going to be honest with you as far as possible.

"I am about to write to five or six men whom I know for certain will aid me; but, mind you, sir, they are men with whom no man can associate and be respectable, or at all times reputable. I am driven to do this. They are good friends to me, and will surely help me; but with them I will lose all the good instilled into me by these five years of hard discipline. If you gainsay

me in this, all well and good; but, remember, they are the only friends I have, and with whom I wish no further association except I am compelled to by the uncharitableness of those to whom I have applied, but who are too perfect in the sight of Heaven to give a convict a helping hand. What am I to do in the matter,— write to those not over-scrupulous men, or keep silent and stay in prison?

“(Signed) CONS. 6,319.”

“Supt.: The rebuke is just, but rather too severe. I have not now nor for over three years entertained even a single thought in common with the supposition you say is implied in my note; and I am sorry that you who should know me better than any one should be so ready to judge me. All I maintained was that I had now no option, but must write to my former associates and let them help me out. I see the madness of this vow, just as you have; but, sir, is it any wonder that any one so long confined as I, and one so earnestly trying to do what is right and open as day, should feel disappointed when so long a trial results in no brighter prospects than has mine?

“I have been benefited while here; and I glory in and feel grateful for the chance I have had in acquiring knowledge and accomplishments while yet young, considering the fact that these are denied to many more deserving than I until they are too old to value or appreciate them. ‘All things will come to them who will but wait.’ I will wait rather than apply to these men. It is worth it, and I realize that it is better far to stay a year longer rather than enter again under the influences that helped to bring me here. I hope you will believe me sincere in this, as I have always believed in you.

“(Signed) CONS. 6,319.”

Sincerely yours,

Z. R. BROCKWAY,

General Superintendent (Z).

ELMIRA, N.Y., Sept. 5, 1899.

HON. F. B. SANBORN, United States Hotel, Saratoga, N.Y.:

Dear Mr. Sanborn,— Yours of the 4th. There has been an unusual number of patients transferred from this Reformatory to the Matteawan Hospital as insane during the past year. I have no positive knowledge of the reason for the increase this year over other years. There has been no change in the demand made upon the prisoners or in the methods of enforcing the discipline, except that in the last four or five months there has been some relaxation of coercion. To really know the cause of the difference of ratio of prisoners becoming insane year by year would involve a knowledge of the antecedents of the prisoners beyond what we, with our full records even, now have. It seems natural and not unreasonable that five or six hundred young felons gathered out of the mass filling the streets of our metropolis and the densely populated cities of the State might average differently year by year, as to their susceptibility to mental disturbance under the same conditions. The class of prisoners received the last year or two has averaged unusually degenerate, judged by the bodily asymmetries and mental temperament. A real lowering

of the average of the class from which the population of the inmates is gathered year by year, would of itself somewhat increase, in a year or two, the ratio of prisoners who become insane. A large percentage of the population of the Reformatory belonging to the pubescent period of life is another fact promotive of mental disturbance. The well-known habit of secret vice—so prevalent in prisons, more with youthful prisoners than with the maturer convicts in the State penitentiaries and probably more in proportion as degree of degeneracy averages lower, as above referred to—has its influence possibly. There is also an institutional tendency, at recurrent periods, to insanity and other forms of anti-social behavior, and during the past year we seem to have been living in one of these periods of recurrent insane impulse. I am personally of the opinion that a considerable percentage of the insanity developed here during the past year, and during another year when there was an unusual number, is what may be termed voluntary insanity; that is to say, the prisoners under pressure to progress themselves toward the point of conditional release by the condition of changed habits (such as self-direction, regulation, control, the special aim of the disciplinary department), skill and power of application in industry, indicated by their progress in the perfection and rapidity of performance of their trade tasks,—all reluctant exercises for them until the new habit is acquired, when such activities become pleasurable, are led to seek release from imprisonment by any other device. One case of real insanity transferred from the Reformatory suggests to hundreds of others a way out other than by proper preparation of themselves for liberation. They simulate insanity until their weak minds give way, and real recognizable mental disturbance appears.

Still again during the past year we have had in attendance here, as assistant physician, a very competent man and experienced with insanity, Dr. Elliott, who has spent ten years in the Manhattan Hospital in New York. He naturally discovers mental disturbance where a physician of less experience would see only criminousness, and I am not entirely sure but between the simulation of insanity by the prisoner and the habituation of observation of it by the physician there may have been and may be an unexplained telepathic influence promoting it.

I have in hand this moment report of the Matteawan State Hospital for 1898, September 30, giving the number of admissions from penal institutions the previous five (5) years (not including the present year), in which it is shown that the percentage of prisoners in the three State prisons transferred to Matteawan is approximately 1.7 per cent. From the Reformatory same period it is 0.8 per cent. During the year 1898 Matteawan received from Auburn State Prison, whose population is about 1,000, 30 patients. At the same ratio, with a population the past year of 1,500, there should have been transferred from the Reformatory 45 cases instead of 40. The number of insane patients committed to the Matteawan Hospital from this Reformatory each of the past six years is as follows: 1894, 7; 1895, 6; 1896, 23 (this was a year of recurrent wave of aberration); 1897, 8; 1898, 13; and 1899, 40.

Sincerely yours,

Z. R. BROCKWAY,

General Superintendent (L).

In this second letter concerning the recent prevalence of insanity in his model prison, Mr. Brockway states, with simplicity and force, the truth in regard to a large part of the prison population of our country,—that they are physically and mentally defective, and lapse readily into pronounced insanity when incarcerated, under any system of treatment. At Elmira,—first, and still almost alone, in this method of dealing hygienically with defective and depraved constitutions,—Mr. Brockway has adopted methods (which are likely to be of general adoption hereafter) for toning up the degenerates, and bringing body and mind into a condition suitable for prison science to have its full operation in their case.

What, then, are the main requirements of this prison science? First, to understand the individual convict and place him in one of several grades, into the highest of which he can rise by effort, even as he can fall to the lowest by indolence or vice. Second, to see that his marking for good or bad conduct, good or poor lessons at school, or progress up or down in manual training and mechanical industry, is done on such a scale, and by persons so experienced, that the convict himself must recognize the justice of the award. Third, instruction at school, but more especially in some trade or honest employment, which will serve as a bread-winner when the prison ceases to be his home. Fourth (but preliminary to all), the Indeterminate Sentence, allowing time for the punishment of the old régime to become the education and rectification of the new science. Finally, a recognition at every step of imprisonment that the future of the prisoner is in his own hands, but that there is sometimes need toward him of what we all experience from the great Superintendent of this reformatory prison of human life,—the exercise of grace and forgiveness, tempering the inflexible results of justice and demerit. Into this moral science must enter, as into all physical science, the inscrutable element of vitality,—a principle whose action we but dimly comprehend, while it is at our peril that we fail to make allowance for it.

At the close of the morning session a debate ensued relative to the foregoing papers, and is, in part, reported as follows:—

Mr. WARNER.—The point in Mr. Brockway's system is will power. Brockway's system is to tone up the mind, physically and ethically, into recognition of the fact that the convict is responsible for his condition, and has the power to change his conduct. It keeps a man in a state of training, and keeps him long enough in that discipline till the habit of a life is changed and the man is fit to take his normal place in society.

Dr. MCKELWAY.—The question is often asked why the South, in the punishment of the crime for which lynchings are inflicted, does not, after the manner of other communities, resort to orderly and deliberate process of judicial inquiry and punishment. That question can be answered, and it is answered. The statement might well be made that other communities very rarely resort in such cases to orderly and judicial processes of inquiry and punishment; but, whenever they do, they are enabled to resort to them as a rule only by the application of systematic and organized force,—namely, the police force. I have learned from a Southern clergyman of more than local reputation, and I have been assured by a Southerner of national reputation on this point; and their answers are uniform and, in brief, are this: That in those instances in which the crime of violent assault is made upon a woman, if the judicial processes are resorted to, the woman, so to speak, in swearing the offence, has to declare that an attempt was made, but was a failure, for the reason that, if proved successful, her social career would be closed, and while she might have the sympathy, she would not have the respect, and would hardly feel that she could survive the scorn of the community. Thus a recourse to the modes of justice would result in injustice, and would result in it to the knowledge of the community concerned, and would be upon their part a silent partnership in the screening of that horrible offence. I submit that the remedy would be to make either the attempt or the successful attempt equally heinous; in other words, a capital offence!

Mr. SANBORN.—I was appointed years ago on the first labor commission by Governor Andrew in 1865 as secretary, and at that time we found the factory laws and factory customs in a very different condition than they are now. Factory legislation in Massachusetts has been its outgrowth; and its administration on the whole has been, I think, efficient and impartial.

Mr. CARROLL D. WRIGHT.—I wish to correct a very common error relative to the well-known report on the Chicago strike of 1894. That report made no mention, as far as the report itself was concerned, of the overt acts in Chicago being the result of the determination of the railroad managers' association. Those men were too honorable to take any such part. The error grew out of a statement after the investigation was concluded at a private meeting in Boston, where I was interrogated in this matter. I stated that the mayor of Chicago had informed me that he had collected a great amount of evidence, and had it on file to use in case the railroads sought through the courts to recover damages resulting from the action of mobs, and that he had collected so much evidence that he was satisfied that, while the railroad mana-

gers' association had nothing to do with the riots and burnings, their agents, without advice, had stimulated the burning of cars and other riotous actions to such an extent that what he had on file in the city hall would be a proper defense against any suit brought for damages, and that, furthermore, while nearly all of the railroads had filed their accounts of damages against Cook County and the city of Chicago, they would never press their actions. And his prophecy, I believe, has proved true, that no railroad has ever persevered in suing the county of Cook for damages occurring at that time.

I think I quite agree with the chairman in many of his conclusions. I believe it can be demonstrated from a statistical point of view that the old saying that the rich are growing richer and the poor poorer is not true. I think it has been demonstrated that the rich are growing richer, more people are growing rich, and the poor are growing better off. If we believe the conclusion of statistical investigation, there is a general upward tendency along the whole line of society. The poor have no objection to wealth as wealth, because they know that money must be actively and productively employed in order to be worth anything to the owner. What they dislike is what you have aptly termed "dropsical wealth." The poor man knows that society is better off with some rich people than with all poor.

I wish to commend the paper of Mrs. Kelley very strongly. Mrs. Kelley, of all women in this country, is competent to speak the words she has uttered. Mrs. Kelley has pointed out, it seems to me, a very great truth. She has illustrated, without attempting it, in her straightforward, honest way, that the factory is, after all, the solution for the sweating system. And I believe that it will be found that the sweating system is simply a relic of the universal system that prevailed before the factory. This system has been restricted by the great power the law has delegated to the factory inspectors, and Mrs. Kelley has done her part in this direction.

It may not be known to all the persons present that there is a great movement on foot in England in this very direction by a gentleman named Smith. He found that in certain parts of England there was a lack of profit, and that lack of profit grew out of ignorance. So he undertook to remedy that difficulty by getting the manufacturers together and form a league, under which they agree as to the cost of production, so as to bring a fair and reasonable profit for their goods when sold. He made another compact with the workmen, that they were to work for nobody except those in the league. It is an application of the trust principle to small things, and it will perhaps succeed and perhaps not. It will depend, of course, upon the integrity with which it is managed. Whether our courts will decide that the Consumers' League is a boycott, as such, remains to be seen. Nevertheless, it is a polite boycott,—a boycott in the interest of the community, and not of the individual; and hence I suppose the courts will find that it is in the interest of the community, and will so decide if the matter comes before them.

Mr. SANBORN.—It has been held by some scientific men of Europe that the introduction of electric power is going to put back into the family some of those industries which have been removed by the factory system.

Mr. WRIGHT.—I have no doubt that will be the result when electricity can be applied at a reasonable cost; but it will never carry industry back to

the old system known as the sweating system, where everybody worked and cooked and slept in one room.

Dr. MCKELWAY.—What was the course of those railroads which suffered by riots at Pittsburg in claiming or collecting damages from the city as compared with the course of the railroads centering at Chicago?

Mr. WRIGHT.—The railroads at Pittsburg at the time of the strike in 1877 collected large damages from the county; and yet it was a matter of common knowledge, never brought out in court that I know of, that their cars were deliberately shoved into the fire.

Mrs. KELLEY.—I hardly like to have it said that the Consumers' League is a boycott. When we select our family physician, if the whole body should choose to select the old school, it would not be a boycott, only a matter of choice. When the anti-expansionists prefer the *Evening Post* to the *Outlook* or the *New York Journal*, we would not say they were boycotting the *Outlook* or the *Evening Post*. I think it is a matter, more or less, of making our selection to get what we consider the best and healthiest, making our selection in the ordinary way.

Mr. WRIGHT.—It may be that the Consumers' League is not boycotting anybody at all; but the result—and I only refer to it—raises another question, What is to be done with the very low-down people who are just now getting a bare existence? What are you going to do with them, when thrown out through the efforts of the league? Are they to go out on the streets as beggars?

Dr. RUSSELL.—It seems to me that the boycott is the right word, because the object is not to call specific attention to a white list more than to suggest the existence of a black list. Certainly, this Consumers' League is not organized to reward virtue, because that has its own reward; but it is to terrorize by the suggestion somewhere of a black list, otherwise it would not be successful.

Mr. PARRISH.—We know that the bone and sinew of Germany have come to the United States, and have not gone to a German colony because there is no German colony to go to. I ask if it is an unfair assumption in your judgment to say, with this tendency to colonization, that the United States of America will at the end of a thousand years contain as many people as Europe to-day, the area being a little larger than Europe.

Mr. WRIGHT.—That is a pretty hard conundrum. You may remember the conclusions of a man by the name of Watson who took the population of 1790, 1800, and 1810, and worked out an arithmetical population for 1900; and, as I recollect, he had something like one hundred and fifteen or twenty millions for the population of the coming year. Instead of that we will have about seventy-five or seventy-six millions. I do not believe in the day of anybody now living, however young, or of the children of those now living, there will be three hundred and fifty millions in this country. That would be an enormous increase: that would be an increase of population along arithmetical lines, and that never occurs. There are many natural causes retarding population. When you settle up a new country, it does not increase rapidly. Great Britain does not increase very rapidly; nor does Germany, Austria, or Belgium. France is at a standstill. I believe the population of the United States

will be pretty thoroughly American. Immigrants coming to America must become Americans to succeed in this country.

Mr. SANBORN.—I think a word should be said in regard to Germany. I am quite sure our English cousins could not take the view stated of the Germans. There is no people so busy and so prevalent in commercial, military, and even political affairs as the Germans. You meet the German trader all over Europe. In the Mohammedan regions of Europe the Germans have established trading posts, and have largely the control of the Turkish trade and the Turkish army. I am inclined to think that the so-called Anglo-Saxon race will have to encounter some difficulties from the Germans.

Mr. PARRISH.—I was talking about the incapacity of the German nation as a nation to assert itself under its own flag in other parts of the world, because those other parts of the world have been previously occupied by other nations, principally the Anglo-Saxon.

6. FINANCIAL ADMINISTRATION OF COLONIAL DEPENDENCIES.

BY ALLEYNE IRELAND, ESQ., OF LONDON, ENG.

[Read Wednesday evening, September 6.]

I am to have the honor this evening of addressing a few remarks to you on the subject of "The Financial Administration of Colonial Dependencies." As the subject is a very large one and as my time is limited, I think it will be better to confine myself to a few general considerations than to attempt any detailed analysis of any particular phase or aspect of colonial finances, since a minute examination of any one point would involve the exclusion of much matter of general interest. It will at once be apparent to you that an inquiry of the kind we are about to undertake would, if followed out in its completeness, necessitate an examination of the colonial systems of three countries,— France, Holland, and England. But I propose this evening to deal almost exclusively with the British colonies, for two reasons: first, because the colonial records of England are incomparably more detailed and reliable than those of France; second, because the Dutch colonies are not sufficiently extensive to afford us a comprehensive view of our subject.

Now I would like to lay down one or two fundamental propositions in regard to the British Colonies. In the first place, the old idea that a colony is a kind of property belonging to the people of the sovereign State, and to be worked exclusively for their benefit, received its death-blow from the success of the American War of Independence. Gradually, since that time, the colonial idea has developed along the most liberal lines, until to-day not a single British colony contributes a cent to the English treasury. A curious reversal of the older custom is to be observed in most of the colonies, in the fact that English goods do not receive preferential treatment under the colonial tariffs. Your minds will naturally turn at once to the case of Canada; but it is necessary to remember that, although English goods do, in fact, enter the

Dominion under more favorable terms than American or French or German goods, it is not because they are English goods, but because they are the goods of a nation which gives free entry in its ports to Canadian merchandise. The fact is that Canada offers the same preferential treatment to the goods of any nation which will give Canadian goods free entry into its ports. We must entirely discard the idea that colonies are to be looked on as sources of revenue to the sovereign State.

The next point to which I wish to draw your attention is this : that the British colonies may be divided into two classes, the self-governing colonies and those which are not self-governing. Now I understand the subject of our discussion to be the Financial Administration of Colonial Dependencies, or, in other words, the problem which is presented to a sovereign State in regard to the administration of finances in its dependencies. But, if a colony is absolutely independent in so far as its financial administration is concerned it is no longer in that respect a dependency and its financial affairs are not the concern of the sovereign State. If I am correct in this estimate of our subject, we may at once dismiss from our consideration all the self-governing British colonies ; for in none of them does the imperial government exercise any control over the finances. The colonies thus thrown out are Victoria, Tasmania, New South Wales, South Australia, Western Australia, Queensland, New Zealand, Natal, the Cape of Good Hope, Canada, and Newfoundland. If the number appears large, it must be borne in mind that there remain thirty colonies whose financial affairs are administered, more or less directly, by the home government.

But, in throwing out the eleven self-governing colonies, we incidentally come into touch with one of the most important, if not the most important, factor in the financial administration of colonies ; that is, the difference between tropical and non-tropical colonies. If we except a small part of Queensland and a small part of Western Australia, we may say that every British colony which manages its own finances lies outside the tropics, and that every colony within the tropics has its financial affairs managed, more or less directly, by the home government.

It would be impossible to lay too much stress on this fact or to overestimate the importance of what I may call the thermometric ratio of colonies. Let me repeat the formula : Every colony

which manages its own finances lies outside the tropics: every colony within the tropics has its finances controlled by the home government.

Now the importance of this differentiation becomes more apparent if we glance at a map of the world. If you run your eye along the tropic of Cancer and then along the tropic of Capricorn you will at once perceive that all the land outside the tropics is occupied either by independent States or by the colonies of the Great Powers, and that the only possible areas for new colonization lie within the tropics.

Here, then, is another reason why the financial administration of the non-tropical colonies does not concern us. But there remains another aspect of this differentiation which is of the utmost importance. Up to this point we have only considered the difference between tropical and non-tropical colonies in so far as their financial administration is concerned; but, as all questions in regard to the financial administration of colonies must rest primarily on their financial condition, we must carry our differentiation a little further, in order to compare tropical and non-tropical colonies from the standpoint of their productive efficiency and their value as consumers. In other words, we must examine the facts in regard to their exports and imports.

Every one is aware in a general way that the man in the tropics is less valuable as a producer and as a consumer than the man in the temperate zones; and that, broadly speaking, the nearer you approach the equator the less becomes the necessity for continuous labor; but I have not yet seen any definite setting forth of the facts of the case. In a volume on "Tropical Colonization" which I have recently completed and which will shortly appear, I have taken occasion to examine this question in considerable detail; and I may introduce here some of the general results at which I have arrived. If we examine the trade of the United Kingdom ~~with the British colonies and possessions during the five-year period~~, we are at once brought face to face with a number of ~~important~~ facts in regard to the comparative commercial ~~value~~ ~~tropical and non-tropical colonies as sources of supply~~ ~~for merchandise~~. Dividing the British colonies ~~into tropical and non-tropical~~ — and making our calculations ~~most favorable to the tropical colonies, we~~ ~~in the five-year period, 1893-97 the United King-~~

dom imported yearly from her non-tropical colonies goods to the value of \$23.18 per head of the population of those colonies, while from the tropical colonies she imported only 66 cents worth of goods per capita. In other words, as a source of supply each man, woman, and child in the non-tropical colonies was thirty-five times as valuable to the United Kingdom as an inhabitant of the tropical colonies.

In regard to the consumption of British goods in the British colonies the figures are not quite so remarkable, because the growth of manufacturing industries in the non-tropical colonies relieves those colonies of the necessity of purchasing many of their commodities abroad. Notwithstanding this, however, the consumption of British goods in the non-tropical colonies amounts to \$12.32 per capita yearly, while, in the tropical colonies such purchases reach the value of only 71 cents per head. That is to say, the people in the non-tropical colonies were nearly twenty times more valuable to the United Kingdom as purchasers of British goods than the people of the tropical colonies. Taking imports and exports together, it pays England better from the commercial standpoint that one child should be born in Canada than twenty-six children in Ceylon.

As I have adopted the view that the best method of setting about the study of the Financial Administration of Colonial Dependencies is to examine their financial condition, I have prepared a table in which the financial condition of ten British tropical colonies during the five-year period 1891-95 is set forth. For the sake of comparison I have included in the table one non-tropical colony,—the colony of Victoria. The tropical colonies which I have selected are distributed over the whole world, and are, therefore, thoroughly representative of the general conditions to be found in British tropical dependencies. They are Trinidad, British Guiana, Jamaica, Barbados, Dominica, and Montserrat in the West Indies; Sierra Leone in Africa; Mauritius and Ceylon in the East; and Fiji in the Pacific. I am sorry that I am unable to have the figures before you while I analyze them, but it has been impossible to arrange this. I suppose, however, that they will appear in the official report of the Association.

It is to be noted that all the calculations are based on the average of five years' returns, and that the element of annual fluctuation is thus to a considerable extent eliminated.

The first point to be dealt with is the annual government expenditure per capita in the various colonies. Here we find Victoria, the non-tropical colony, spending \$33.43 per head; whilst the nearest approach to this among the tropical colonies is Trinidad with \$10.90 per head. Only one of the remaining nine tropical colonies spends more than \$10, and Ceylon is at the bottom of the list with \$1.81. Turning now to public debt per capita, Victoria shows \$191.54 per head, and Barbados \$2.72, the highest debt among the tropical colonies being that of Jamaica, which is \$15.08.

Now the reason of this variation in debt and expenditure is not far to seek. The tropical colonies are much more densely peopled than Victoria and are of small area, both of which conditions are favorable to cheap administration. It costs about as much to govern a given territory sparsely inhabited as thickly inhabited, and the rate per capita, therefore, appears high in the former case, while in regard to public works a large and thinly populated area is at a great disadvantage compared with a small and densely populated one. But, if we turn to the question of consumption and production, we may arrive at a truer appreciation of the difference between tropical and non-tropical colonies; for, in so far as productive efficiency is affected by density of population the advantage would be on the side of the densely populated tropical colonies, and, therefore, any marked superiority in this respect to be observed in the non-tropical colonies would be the more worthy of attention.

Now Victoria exports yearly produce to the value of \$60.32 per head of her population; while Ceylon exports only \$6.32 per head, or a little more than one-tenth as much as Victoria. This fact is noteworthy; but it is less noteworthy than the fact that Trinidad, one of the tropical colonies, exports \$46.92 worth of goods per capita, while Victoria, one of the most efficient non-tropical colonies, exports only \$60.32 per head. This fact might seem at first glance to make against the importance of our differentiation between tropical and non-tropical colonies. "There is not so much difference, after all," one might say; and this feeling would be strengthened by a reference to the export returns of the other tropical colonies, for it is then seen that there is a much greater variation between the tropical colonies themselves than between the more efficient tropical colonies and Victoria. Unless,

then, we can find some law governing the variation in the tropical colonies, it would appear as though our differentiation broke down as soon as we tried to apply it to the productive efficiency of the two classes of colonies. But, as a matter of fact, this difficulty entirely disappears when we apply our minds to a consideration of the laws governing production in the tropics. We then find that, as the thermometric ratio served to differentiate the tropical from the non-tropical colonies, so the labor conditions in the various parts of the tropics serve to differentiate the tropical colonies themselves.

As regards their labor conditions, tropical colonies may be divided into three classes: (1) those in which the labor supply consists of imported contract laborers; (2) those in which there is a considerable pressure of population; (3) those in which there is no pressure of population and in which there is no imported contract labor. In order to illustrate the difference in the productive efficiency of these three classes of colonies, I select three of each class: British Guiana, Mauritius, and Trinidad, in which the labor supply is almost entirely imported contract labor; Barbados, St. Kitts-Nevis, and Antigua, in which there is a considerable pressure of population; and St. Vincent, Montserrat, and Dominica, in which there is no pressure of population and in which there is no imported contract labor. The export returns of these colonies during the ten-year period 1882-91 show that the colonies of the first class exported yearly produce to the value of \$45.58 per head of their population, the colonies of the second class \$28.38 per head, and the colonies of the third class only \$11.66 per head. We can now examine the bearing of these figures on our general proposition; that is, the great difference which exists between the financial condition of tropical and non-tropical colonies.

The first point to be noted is this: that, if we wish to compare the productive efficiency of tropical and non-tropical colonies, we must select for our comparison those colonies in which the labor conditions are similar. The contract labor in the first class of colonies, and the pressure of population in the second class, which is as great as 1,100 souls to the square mile in Barbados, represent conditions which do not exist in Victoria; and, therefore, if we are to compare that colony with any tropical colonies, we must select those in which there is no pressure of population and in which there is no imported contract labor. Under these conditions we

find Victoria with a productive efficiency of \$60.32 per head, and St. Vincent, Montserrat, and Dominica with a productive efficiency of \$11.66 per head.

Now it may be asked, What bearing has this on the question of financial administration? And I would reply: It has a most important bearing, for one of the most important questions in regard to the financial administration of colonies is the raising of revenue. And the connection between the productive efficiency of a colony and its revenue is very apparent, if we consider the sources from which revenue is derived in tropical colonies. In the first place, then, it must be remembered that there is a very close connection between the value of exports from a colony, and the value of imports into it. I have no time to give you the per capita figures in regard to imports as I have done in regard to exports, but it is sufficient to say that they follow very closely the figures in regard to the exports. Broadly speaking, those colonies which show the largest per capita exports show the largest per capita imports.

Now one of the chief sources of revenue in tropical colonies is the duty on imports. How large a proportion of colonial revenue is raised from customs duties is shown in the table which I have prepared. Sierra Leone raises 79.77 per cent. of its revenue from customs, Barbados 51.79 per cent., British Guiana 50.78 per cent., and Trinidad 50.23 per cent., the lowest proportion being that of Ceylon, which raises only 24.75 per cent. of its revenue from customs.

You will see at once the point to which I am leading, namely, that the first thing to consider in regard to the financial administration of a colony is, How can you raise its efficiency as a consumer to such a point as to give you a liberal income from import duties? And the answer is obvious: it is by increasing its productive efficiency.

But we have seen that the productive efficiency of a tropical colony is regulated by the labor conditions prevailing in it, and that, although one set of tropical colonies can only reach a degree of productive efficiency equal to one-fifth that of Victoria, yet another class succeeds in attaining a degree of efficiency less, it is true, than that of Victoria, but not greatly less.

For the sake of clearness I repeat the figures relating to productive efficiency: Victoria, \$60.32 per head; the colonies em-

ploying imported contract labor, \$45.58 per head; the colonies in which there is a pressure of population, \$28.38 per head; and the colonies without imported labor and in which there is no pressure of population, \$11.66 per head.

If a country is satisfied to have in its colonies a standard of living which is measured by a productive efficiency of \$11.66 per head, no more need be said. If, however, it is desired to raise the standard of living, only one thing can be done, if past experience is to count for anything,— that is, to sanction the employment of imported contract labor; for a pressure of population cannot be secured by government regulation.

The necessity for the use of imported contract labor in those colonies in which there is no pressure of population arises from the fact that, when a man can satisfy all his wants merely from the bounty of nature, he will not devote himself to steady work. Now this is exactly the case throughout the tropics. In the island of Dominica, for instance, what reason is there for a man to work, when he can go into the forest, build himself a house from the branches and leaves of the trees, and secure an ample supply of food from nature's storehouse? I am not prepared to claim that we have any right to go to the man in the tropics, and say to him, "Come, quit this life of pleasant idleness, and work five days a week for me." But the fact remains that if the tropics are to be developed at all somebody has got to do the work, and that if the native on the spot will not do it laborers must be imported who will.

It is all very well to say that the desire to improve his position in life will be sufficient inducement to the negro in the tropics to make him work steadily; but the facts show that he doesn't want to improve his position, but is, on the contrary, quite content, possibly wisely content, to live a comfortable life of leisure. Thus we are forced to admit the necessity of imported contract labor as an alternative to permanent stagnation.

Now the question of imported contract labor is too large for me to discuss in detail this evening; but as it is a most important question, and one which I have studied for some years in the tropics, I may devote a few minutes to it. And this is the more necessary because I am constrained to believe that there is very little knowledge in the United States of the working of such a system. I may best give you a brief outline of the imported con-

tract labor system as it is in force in the British tropical colonies by quoting from an article written by me in the early part of this year for the *Popular Science Monthly*, in which I describe the system as it exists in British Guiana, where I spent three years working among the laborers, having at times as many as four hundred contract laborers under my daily observation.

The system is under the control of the Indian Council in Calcutta, on the one hand, and the British Guiana government and the Colonial Office, on the other. In Georgetown the capital of the colony, is the immigration department, under the management of the immigration agent-general, who has under him a staff of inspectors, sub-agents, clerks, and interpreters, all of whom must speak at least one Indian dialect. In Calcutta resides the emigration agent-general, also an official of the British Guiana government, who has under him a staff of medical officers, recruiting agents, and clerks.

Each year the planters of British Guiana send in requisitions to the immigration department, stating the number of immigrants required for the following year. These requisitions are examined by the agent-general; and if, in his opinion, any estate demands more coolies than the extent of its cultivation justifies, the number is reduced. As soon as the full number is decided on, the agent in Calcutta is informed, and the process of recruiting commences. The laborers are secured entirely by voluntary enlistment. The recruiting agents go about the country and explain the terms offered by the British Guiana planters, and those men and women who express their willingness to enter into a contract are sent down to Calcutta at the expense of the colony.

On arrival in Calcutta they are provided with free food and quarters at the emigration depot until such time as a sufficient number are assembled to form a full passenger list for a transport. During the period of waiting, which may extend to several weeks, a careful medical inspection of the laborers is made; and all those who may be deemed unfit for the work of the estates are sent back to their homes at the expense of the colony. Prior to embarkation the coolies are called up in batches of fifteen or twenty, and the emigration agent or a local magistrate reads over to them in their own language the terms of the indenture. Each one is then given an indenture ticket on which the terms of in-

denture are printed in three dialects. The agent-general affixes his signature to each ticket, and a special provision in the laws of British Guiana makes his signature binding on the planters who employ the coolies. The ticket thus constitutes a contract valid as against either party in the courts of the colony.

The coolies have the right to carry with them any children they may wish, and those under twelve years of age are exempt from indenture. The transportation is effected in sailing vessels, which are for the time being government transports. The reason why steamers are not employed is that sailing vessels are found to be much healthier, and that the long sea voyage has an excellent effect on the immigrants. The regulations governing the voyage are very strict. As far as the coolies are concerned, the ship is in charge of a medical officer. The captain of the ship, the officers, and the crew are all under the command of the doctor, except in so far as the actual sailing of the vessel is in question. The vessel has ample hospital accommodation, a complete dispensary in charge of a qualified dispenser, and all the arrangements must be passed by a government inspector before the ship is given her clearance. The food to be furnished during the voyage is specified by law. The bill of fare consists chiefly of bread, butter, rice, curry, sago, condensed milk, and fresh mutton, a number of sheep being carried on the ship.

Every morning and evening the doctor makes an inspection of the vessel, and enters in his log book all essential details, such as births, deaths, cases treated in the hospital, and so forth.

On arrival in the colony the coolies are allotted to the different estates. The coolie is bound to remain for five years on the plantation to which he is allotted, and to work during that time five days a week, the day's work being seven hours. In return for this the planter must furnish him with a house free of rent, and built in such a way as to meet the requirements of the inspector of immigrants' dwellings in regard to ventilation, size, and water supply; and no immigrants are sent to any estate until these houses have been inspected and passed as satisfactory. The planter must also furnish on the estate free hospital accommodation and medical attendance, and in addition provide free education for the children of indentured immigrants.

The medical officers are government servants; and the colony is divided into districts, each of which has its own doctor, who is

compelled by law to visit each estate in his district at least once in forty-eight hours and examine and prescribe for all immigrants presenting themselves at the hospital.

The planter is further bound to pay a minimum daily wage of twenty-four cents to each man and sixteen cents to each woman. This appears at first sight a very small sum; but, when it is taken into account that a coolie can live well on eight cents a day, it will be seen that the wage is three times the living expense,—a rate very rarely paid to agricultural laborers in any part of the world.

That the coolies do, in fact, save considerable sums of money, will be seen when the statistics of the immigration department are examined. These records show that, during the years 1870 to 1896, 38,793 immigrants returned to India after completing their terms of indenture, and that they carried back with them to their native land over \$2,800,000. At the end of 1896 there were over five thousand East Indian depositors in the British Guiana Government Savings Bank and the Post-office Savings Bank, with a total sum of more than \$450,000 to their credit.

At the end of five years the indentured coolie becomes absolutely free. He may cease work, or, if he prefer it, remain on the estates as a free laborer. The whole colony is open to him, and he may engage in any trade or profession for which he may be fitted. If he remains for five years longer in the colony, even though he be idle during the whole of that time, he becomes entitled to a grant of land from the government or an assisted passage back to his native place. All East Indians who are destitute or disabled are entitled to a free passage back to India, and all females or children who may be dependent on a returning East Indian are given a free passage back to India.

On an average, about 1,500 East Indians return each year to India.

To give an instance of the effectiveness of the government supervision, each estate is compelled by law to keep pay lists according to a form specified by the immigration department, in which the name of each indentured immigrant must be entered, with a record of each separate day's work during the five years of the indenture. Thus, if the pay list shows that in a certain week a man worked only two days out of the legal five, it must also show the reason why he did not work on the other three days. It may have been that the man was in the hospital, in which case

the letter "H" must appear opposite his name for those days; or he may have been granted leave of absence, when the letter "L" would account for him. These pay lists are inspected by a government officer twice a month; and any faults disclosed by the examination become the subject of a severe reprimand from the agent-general, followed in the case of persistent neglect by the cutting off of the supply of coolies.

So minute are the records of the immigration department that, were an application made to the agent-general for information regarding some particular indentured coolie, that official could, without difficulty, supply the name of the man's father and mother, his caste, age, native place, with the same information in regard to the man's wife. He could also make out an account showing every day the man had worked during the term of his indenture, and the reasons why he had not worked on the other days, with the exact amount earned on each working day. In addition to this, he could state how many days the man had spent in the estate's hospital, and what was the matter with him on those occasions, besides furnishing a copy of every prescription made up for the man in the estate's dispensary.

A striking evidence of the desire of the government to protect the coolies from ill-treatment of any kind is afforded by the rule of the immigration department that, if any overseer on an estate is convicted of an offence against an indentured immigrant, the dismissal of the offender is demanded; and each estate in the colony is warned that, if it employ the man, the supply of immigrants will be cut off.

The coolies are given every facility to complain of ill-treatment or breach of contract on the part of the planters; for, in addition to the opportunity afforded by the regular visits of the sub-agents, the right is secured to them by law of leaving any estate without permission in order to visit the agent-general or the nearest magistrate, and either of these officials has the power to issue all process of law free of cost to any coolie who satisfies him that there is a *prima facie* cause of complaint.

Such, in brief, are the features of the East Indian immigration system of British Guiana.

I do not assert that all systems of imported contract labor in the tropics are conducted as admirably as that in force in British

Guiana; but, if the thing can be done honestly and effectively in British Guiana, it can be done honestly and effectively elsewhere.

I wish now to refer to two matters which have a most important bearing on the question of the Financial Administration of Colonial Dependencies. One is the colonial civil service: the other is the question of throwing open colonies to the trade of the world.

The first requisites for an efficient colonial civil service are permanence of appointment and good salaries. I imagine that there can be no doubt in your minds — at any rate, no doubt in the minds of those of you who have lived in the British colonies — that, on the whole, the British colonial civil service is honest and effective. As an Englishman, it would ill become me to hold forth on the excellence of the British civil service; but I would ask you to reflect that England administers territories which have in the aggregate a population about six times that of the United States,—roughly, 420,000,000 people,—and that during the past twenty years there have not been brought to light a dozen cases of corruption on the part of the higher officials.

Now what is the British method? A man enters the service as a youth with the prospect of remaining in it during the whole of his working life. He commences low down in the scale; but, if he works well, he soon rises. By the time he has been ten years in the service he has probably served in two or three colonies in different parts of the world; and he is becoming more valuable year by year, as his experience is enlarged. He knows that each year the Colonial Office receives a confidential report on his work from his official superior, and that his promotion lies in his own hands. He knows also that the Colonial Office, when it is seeking for a man to promote, will not ask: What are his politics? What is his color? but simply, What is this man's capacity? By the time he rises to an important position he has become thoroughly grounded in administrative work, and has accumulated an amount of experience which enables him to face his responsibilities with a wholesome confidence that he can honorably acquit himself. As against this he knows that, if he so conducts himself as to bring discredit on the honorable service to which he belongs, no influence will save him from dismissal.

A word now in regard to salaries. A colonial governor in a British tropical colony receives a salary varying from eight or nine thousand dollars in the smaller colonies to thirty thousand in

the larger. Thus the governor of the Bahamas gets \$9,600, the governor of British Guiana \$25,000. The higher officials receive handsome salaries. The chief justice of British Guiana gets \$10,000; the attorney-general, \$7,500; the immigration agent-general, \$7,500, and so forth. It must be borne in mind that no colonial official is allowed to engage in trade or to have any connection with commercial undertakings in the colony to which he is attached, and that, in the case of the higher judicial and fiscal offices, local connection with a colony, either by birth, family ties, or otherwise, renders a man ineligible for appointment in that particular colony. Almost all offices in the British colonial service carry with them a pension, and also a provision for widows and orphans.

The effect of the liberal treatment of colonial officials is to attract to the service men of the very highest character and ability and thus the competition for places in the service enables the government to secure men who are above the average of ability and integrity.

The last point to which I am able to refer this evening is the throwing open of colonies to the trade of the world. I hope you will accept my assurance that in what I am about to say on this subject I have no intention of offering any advice to the American people in regard to what they should do with their own colonies. That is entirely a question for the American people to decide for themselves, and I fear that my countrymen have recently been a little too generous in offering advice. So what I wish to do is simply to draw your attention to certain facts, from which I shall leave you to draw your own conclusions.

Briefly, my proposition is this: that a country may so administer the financial affairs of its colonial possessions as to seriously imperil the peace of the world, or, to put it more plainly, as trade restrictions have been from time immemorial a cause of war, so today a country which colonizes with a view to securing a trade monopoly with its possessions does more for the cause of war than a dozen peace conferences can do for the cause of peace. Before you make up your minds that I am overstating the case, bear with me for a moment while I go into the facts.

Many of you are familiar with Sir John Seeley's work on "The Expansion of England." You may remember that he points out how between 1688 and 1815 England was engaged in seven great

wars, five of which were wars with France from the beginning, and both the other two, though the belligerent at the outset in one case was Spain and in the other the American colonies, yet became in a short time and ended as wars with France.

Now Sir John Seeley has clearly demonstrated that, though all these wars with France arose apparently from causes to be found in Europe itself,—such, for instance, as the questions of the Austrian Succession, the Spanish Succession, or the claim of Frederic the Great to Silesia,—the great motive in the background was always the ownership of the New World, or whether England or France should secure the new territories and with them the monopoly of their trade. He says: “Commerce in itself may favor peace; but, when commerce is artificially shut out by a decree of government from some promising territory, then commerce just as naturally favors war. The New World might have favored trade without at the same time favoring war if it had consisted of a number of liberal-minded States open to intercourse with foreigners, or if it had been occupied by European colonies which pursued an equally liberal system. But we now know what the old colonial system was. We know that it carved out the New World into territories which were regarded as estates to be enjoyed in each case by the colonizing nation. The hope of obtaining such splendid estates and enjoying the profits which were reaped from them constituted the greatest stimulus to commerce that had ever been known, and it was a stimulus which acted without intermission for centuries. This vast historic cause had gradually the effect of bringing to an end the old mediæval structure of society and introducing the industrial ages. But inseparable from the commercial stimulus was the stimulus of international rivalry. The object of each nation was now to increase its trade not by waiting upon the wants of mankind, but by a wholly different method; namely, by getting exclusive possession of some rich tract in the New World. Now, whatever may be the natural opposition between the spirit of trade and the spirit of war, trade pursued in this method is almost identical with war, and can hardly fail to lead to war.”

Let me point out to you that England has entirely abandoned this old barbaric method of trade. She has recently reconquered the Soudan, and has thrown open the whole of Egypt to the trade of the world. She will herself secure a large share of that trade; but it will be secured in open competition with other countries,—a

competition in which America should take a leading place. Now suppose for a moment that France had secured the control of Egypt, and not England: do you think that American goods would be allowed to enter that country on equal terms with French goods? Perhaps you may not realize how closely France still adheres to the old barbaric system of the excluded market. Let me give you an instance. In 1895 Madagascar became a French colony. Prior to that time England had secured in open competition with the world a large proportion of the trade of Madagascar. As soon as the French occupied the island, a prohibitive tariff was placed on British goods, with the result that the trade between Great Britain and Madagascar was almost destroyed. But the French were not content with erecting a hostile tariff against British goods: the local authorities called together the native traders, and threatened to put them in jail if they purchased English goods.

This is only one instance; but it will serve to show that England is placed under the necessity of keeping some portion of the world open to her trade, and that she cannot stand by and see territory after territory absorbed by powers which will do their utmost to strangle her industrial development. It is this great fact which guides and must continue to guide England's foreign policy, and it is this fact which lies at the bottom of her naval expenditure.

England does not claim in her own colonies, still less in those of any other country, any trade privileges, but only the right of open competition; and, so long as this right is not accorded her, so long will she find it necessary to prevent the absorption of large trade areas by foreign powers, even if war proves the only means by which this end can be attained. In conclusion, I would ask you to give your earnest consideration to this one fact: that wherever the English flag floats there American commerce can enter into free competition with British commerce on fair and equal terms, that every area closed to British trade by France or Russia will also be closed to American trade.

As a nation, you stand at the parting of the ways. The policy which is pursued in regard to the trade of the American colonies will show with whom you desire to throw in your lot. It will also determine whether England is to remain the one Great Power which says to all men,— “Welcome to a fair and friendly rivalry with me in the arts of peace.”

STATEMENT OF THE FINANCIAL CONDITION OF SOME OF THE BRITISH COLONIES DURING THE FIVE YEARS 1891-95.

	Average Total Revenue. £	Average Customs Revenue. £	Average Expenditure. £	Average Public Debts. £	Average Imports. £	Average Exports. £	Population.
Victoria	7,226,634	2,036,082	7,993,392	45,790,630	1,542,582	14,420,823	1,147,500
Trinidad	518,305	260,354	497,559	575,559	2,177,361	2,140,700	218,981
Mauritius	796,613	273,602	822,941	1,107,389	3,190,362	2,667,189	374,487
British Guiana	570,767	289,846	567,093	842,748	1,704,220	2,226,817	280,803
Sierra Leone	93,238	74,383	85,568	50,000	436,127	435,174	77,550
Jamaica	771,341	326,435	756,443	2,096,432	2,067,971	1,870,423	667,178
Barbados	158,867	82,281	170,776	105,100	1,151,596	911,143	185,433
Dominica	22,487	8,137	26,085	46,900	63,813	44,192	26,920
Montserrat	7,661	3,192	8,300	12,160	27,881	25,671	12,000
Fiji	75,574	34,682	73,972	235,064	278,959	435,741	121,300
Ceylon	1,169,757	289,595	1,195,221	3,084,549	4,555,124	4,160,638	3,153,065

COLONIAL DEPENDENCIES — A. IRELAND

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	Total Revenue per Capita.	Customs Revenue per Capita.	Proportion of Revenue raised from Customs Duties.	Total Expenditure per Capita.	Average Annual Deficit per Capita.	Annual Average Surplus per Capita.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Victoria . .	6 6 9½	30 43	8 5½	27 98%	6 19 3½	33 43
Trinidad . .	2 7 4	11 36	1 3 9	5 70	2 5 5	10 90
Mauritius . .	2 2 8	10 24	14 7	3 50	2 3 11	10 54
British Guiana	2 0 7½	9 75	1 0 7½	4 95	2 0 4½	9 69
Sierra Leone .	1 4 0½	5 77	19 2	4 60	79 77	1 2 0½
Jamaica . .	1 3 1	5 54	9 9	2 34	42 32	1 2 8
Barbados . .	17 1½	4 11	8 10½	2 13	51 79	18 5
Dominica . .	16 8	4 00	6 0½	1 45	36 18	19 4½
Montserrat . .	12 9	3 06	5 3½	1 27	41 66	13 10
Fiji . . .	12 5½	2 99	5 8½	1 37	45 89	12 2
Ceylon . . .	7 5	1 78	1 10	44	24 75	7 6½

	Public Debt per Capita.			Value of Imports per Capita.			Value of Exports per Capita.			Excess of Value of Imports per Capita.			Excess in Value of Exports per Capita.			Ratio of Expenditure to Value of Exports.			
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.				
Victoria . . .	39	18	1	191	54	13	8	9½	64	51	12	11	4	60	32	—	55.40 to 100		
Trinidad . . .	2	12	6½	12	61	9	18	10	47	72	9	15	6	46	92	3	4	23.23 to 100	
Mauritius . . .	2	19	1½	14	19	8	10	4½	40	89	7	2	4	34	16	1	8	30.85 to 100	
British Guiana	3	0	0	14	40	6	1	4½	29	13	7	18	7	38	06	—	—	25.45 to 100	
Sierra Leone .	12	10½	3 09	5	12	5½	26	99	5	12	2½	26	93	3	06	—	—	19.64 to 100	
Jamaica . . .	3	2	10	15	08	3	1	11½	14	87	2	16	0½	13	45	5	11	1.18 to 100	
Barbados . . .	11	4	2 72	6	4	2	29	80	4	18	3	23	58	1	5	11	6	18.74 to 100	
Dominica . . .	1	14	10	8	36	2	7	4½	11	37	1	12	9½	7	87	14	7	59.02 to 100	
Montserrat . .	1	0	3	4	86	2	6	5½	11	15	2	2	9	10	26	3	8½	32.35 to 100	
Fiji	1	18	9	9	30	2	5	11½	11	03	3	11	10	17	24	—	1	5 10½	16.93 to 100
Ceylon . . .	19	6½	4 69	1	8	10½	6	93	1	6	4½	6	33	2	6	60	—	—	28.59 to 100

Mr. SANBORN.—Mr. Ireland uses the term "colonization" in the sense of opening a new country to settlement by a foreign nation. We have generally used the term in the colonization made by the United States of settlements made in our own territory. Now Mr. Ireland has taken up to-night the questions of governmental policy. He has not considered, except in the way of contract labor, those matters which more directly affect the individual, affect the people; and I think upon that point there might be some questions asked that would bring out important information.

Mr. WRIGHT.—How do these subject races that he has had experience with view the domination of the English? Are they better content with it, and do they realize they are better off than before?

Mr. IRELAND.—Those people in a race who desire to have security of life and property and the assurance that they can go about their business protected, such of them are devotedly thankful. It is largely a question of feeling. I was in British Guiana at the time of the Queen's Jubilee. There is a colony which has a population of East Indians, negroes, and whites. When the queen left Buckingham Palace on the morning of her Diamond Jubilee, she pressed an electric button which carried a message of greeting to all parts of her dominions. When that message reached British Guiana, it was read to the people by the governor; and it was a curious thing to see there, around the statue of the queen, ten or twelve thousand people singing "God save the Queen" with the utmost fervor. Many of them scarcely knew where England was or under what form of government the queen ruled over them. What they knew was that they had lived there for a certain number of years, had gone about their business, and been protected. I think that all of them realize throughout the British colonies that they have a stable and honest government. I have been in the tropical and non-tropical; and I think, on the whole, I may say the people are well content.

Mr. BALDWIN.—How many of the coolie laborers brought to British Guiana settle and become citizens and land-owners there?

Mr. IRELAND.—Take 1886: 4,796 were imported, and 1,889 went back. The death-rate is not very high. I find in 1896 the death-rate among the coolies 16.50, for the colony generally 24.10, per 1,000.

Mr. SANBORN.—They are at an age when death is less frequent?

Mr. IRELAND.—That is certainly the case, no doubt. The facts show that they are subject to no ill-treatment. One of these coolies is about to run for the legislature. After serving his contract he became a butcher, and is now one of the well-to-do men.

Mr. SANBORN.—Do you make the same remark in regard to India with regard to being content under British rule?

Mr. IRELAND.—Yes; but I think the conditions are different, and I am inclined to think that England will have to change her policy,—either have to give up or make it more autocratic than it is. My observation, and the best of my belief, is that people of the tropics are not fit for self-government, never will be fit for self-government, and do not want self-government. Nothing irritates a native of the tropics as much as responsibility. Take a Hindu official, for instance. He will go to a law school and take everything before him, and he is a splendid man to sit down in a nice, furnished office; and, as

long as everything goes well, you could not find a better man. But let the plague come, or famine, or war, and he goes all to pieces. They want to do something, but they do not want to act for themselves. They want somebody to tell them what to do. Of course, historically, they are better off than they ever were before; for they are free from foreign invasion. The Indian Budget is borne entirely by India; and it may be said, broadly speaking, that India pays its own expenses. There are, of course, in India, as elsewhere, a number of agitators who are constantly engaged in trying to stir up discontent. I read the other day a pamphlet by one of them. It described a very horrible state of affairs in India, and I was astounded. On looking carefully over the document, I found that, although the date of publication was given in large type as 1899, it was in fact a reprint of an article published in 1853. The conditions it described were not those of to-day, but of forty years ago.

Mr. WRIGHT.—Can you tell what English colony, as to its people, etc., nearest approaches that of the Philippines?

Mr. IRELAND.—I think the Malay Peninsula. The system we adopted in the Malay Peninsula was this. To try to take a barbarous nation and subdue it all in a block, we would never have done in this century or the next. We took a small piece of the country, made it absolutely secure, law courts were established, and civil police administered the country, so that a man's life was secured in that district. Outside that district the natives looked on and said, "Look at that man: he has got a house, and nobody burns it; he has a cow, and no one can steal it; he gets money for his work,—these foolish people give him silver dollars for his service." And by and by they saw that it was a good idea; and they, too, wished to come in. Then we made another zone,—a continually, gradually growing zone,—so that at the end of a few years we were able to get the greater part of that country under favorable control. The great thing seems to be, in my dealing with native races, to never break your word with them. Never give them any precedent that will enable them to say, "We do not know about what this man said to-day whether he will keep it or not." If you do say something to a native, even if you find out it is wrong after you say it, it is really better to adhere to the wrong than to change. The minute you change, they believe you will always change; and you will never get anything out of them at all.

Mr. WRIGHT.—There are different grades of civilization among them, as I understand, among the Philippines?

Mr. IRELAND.—I do not know that the Malay has ever developed any amount of culture; but they have schools there now, and the natives are attending the schools largely. They are getting along very nicely, and very soon will be educated so they won't want to work.

Mr. SANBORN.—Are they Christians?

Mr. IRELAND.—Not Christians to any extent.

Mr. WRIGHT.—What is the population of the Malay Peninsula?

Mr. IRELAND.—I should imagine one and a half to two millions.

Mr. WRIGHT.—How many soldiers do you think it took?

Mr. IRELAND.—I could not say exactly. We soon found that a purely military policy would not do, and then we adopted the method I have referred to.

A MEMBER — Is not the success of the English in their colonization due to the rapid-firing gun which they use constantly and which can be turned in any direction?

Mr. IRELAND.— No. I think the success of the English is due to trying to live up to a strict sense of justice, making every man feel he is equally protected and cared for. As an example, in one of our West Indian colonies, the governor of the island was late for an engagement; and, in order to save time, he walked across the potato patch of a negro. The negro came out, and ordered the governor off his potato patch. The governor said: "Probably you do not know who I am. I am the governor of the island." The negro said: "I don't care if you are six governors. I want you to get off my potato patch." And in a few days the governor had to appear in court and plead guilty, and pay a fine for trespassing on the negro's potato patch. Our success, I believe, lies in this impartial administration of justice.

7. REMARKS ON "THE FINANCIAL ADMINISTRATION OF COLONIAL DEPENDENCIES."

BY THE LATE GENERAL GUY V. HENRY, MILITARY GOVERNOR OF
PORTO RICO.*

It is hardly within the province of an army officer, whose whole experience in finances consists in drawing and expending his limited monthly pay, to discuss or give any ideas on the subject of finance, particularly to those who have made a study of the subject. Having been asked to make some remarks on the financial administration of our colonies, I will first show the conditions at Porto Rico, to which island I will confine my remarks.

When our troops landed, we were met by a currency different from our own,—the peso, or dollar, coined in Spain and sent to Porto Rico. By official order, for custom-house purposes, this was received in payment of duties at the rate of two pesos for one American dollar. For mercantile purposes, or dealings with the natives, they at first allowed this rate; but gradually it was lowered to \$1.95, \$1.75, \$1.65, \$1.60, and sometimes lower. Money-lenders obtained this Porto Rican money for the purpose of speculation. For a time, and in small amounts, the custom-house would pay to those connected with the government two pesos for each dollar turned in; but this was stopped later, as the deposit of Porto Rican currency was being reduced, and it was needed to meet the government obligations for labor and services rendered by the Porto Ricans, as that was the scale on which payments were based, or, if paid in American money, at a loss to the government, owing to the variable exchange allowed in market. This action, or official order, stopping the personal favor of exchange in the custom-house at the two for one rate to every one, except in payment of customs, was not pleasantly received. It not only worked a hardship on the soldier, who found his dollar and its purchasing power depreciated, but it also caused him to contribute toward the payment of the Porto Rican customs duty,—in this way: he

*Owing to the recent death of this distinguished soldier, the paper herewith submitted did not have the benefit of his correction. The Editor, however, has carefully revised the proof.

would make a purchase, pay his dollar, obtaining credit at, say, \$1.65, Porto Rican valuation. The Porto Rican would take the soldier's one American dollar, go to the custom-house in the payment of his duties, and obtain credit for two pesos, the soldier thus helping the Porto Rican some thirty-five centavos (or cents) on each payment of one dollar, and the soldier being out on each one-dollar transaction the amount gained by the Porto Rican. There was nothing to prevent money-dealers profiting in the same way in the various exchanges. It was claimed by the Porto Rican that the peso's value was fluctuating, going as low as \$1.25, dependent upon crops shipped abroad and the exchange required; but, as there was no market or shipments made, the cause of depreciation was only the result of money speculations in the interest of a few. In fact, at some places, when we first occupied the island, for the American dollar 2.20 Porto Rican was allowed,—about, I believe, the real intrinsic value of the peso in silver compared with the American dollar.

These money conditions were so unstable that in January, 1899, the President issued an order fixing the rate of exchange at \$1.66 $\frac{2}{3}$ pesos of Porto Rican money for one dollar American money. Finding this valuation was not accepted outside the custom-houses, I directed the custom-houses at San Juan, Ponce, and Mayaguez to keep on hand, for exchange at the above rate, Porto Rican money. In no case was it to be exchanged for persons engaged in exchanging money for profit. So long as this exchange of money continued, it was directed no person engaged in business in Porto Rico refuse to accept American money, when tendered at the rate prescribed by the President of the United States.

In this same order it was urgently recommended that all tradesmen throughout the island express the price of their goods in American money, with alternate price in Porto Rican money, with due regard to the authorized rate of exchange. This plan failed, owing to the impossibility of keeping on hand the necessary Porto Rican money for exchange, doubtless held by interested parties to prevent the desired purpose. Merchants held to the 1.60 to 1.65 rate, and, as well, raised their prices to an American basis. My cabinet officers, judges of the courts, and subordinates complained they even paid in Porto Rican money, and in payments by them were charged at American rates, in payment of my laborers on the island, of whom I had some fifteen thousand. Porto Rican

money not being available, I was obliged to make payments in American money, based upon the rate of exchange required by the merchants at the time, so that the laborer would not be a loser.

This money condition was unfortunate, and left the financial part of the island, in business transactions, in the hands of the merchants or money-dealers. Why they did not abuse it more was due, perhaps, to the fear that stringent measures might result to their disadvantage.

One day a money-lender came to the palace, and said, if I would give him an order on the custom-house for Porto Rican money, he would force others to give more for the American dollar. He was to receive the money at two for one, and could well afford to make the exchange nearer than of 1.65, to the advantage of others as well as himself. Not being in the money-making business, I did not accept his plan. This Porto Rican currency, made in Spain, could be easily smuggled on to the island, and with profit to those engaged in that business. So I applied to have the dies used in its manufacture in Spain destroyed. What subsequent action followed, I do not know. This peso was coined to prevent the importation of Mexican dollars into Porto Rico, and to impart some stability to the currency of Porto Rico. In a few of the towns, banks issued notes, or bills, which were received and redeemed at their face value; but, apparently, confidence in said issues was confined to the towns where issued, as I could not receive value for a San Juan bill in Ponce, and I imagine this rule was general. My Secretary of State, one of the directors of the Bank of Spain in San Juan (in name only, having no connection with the Madrid government), resigned as Secretary and came North, and with me visited the Secretary of the Treasury, Mr. Gage. The bank was anxious for some guarantee of its continuance under the protection of the government. This, of course, could not be granted; but the Secretary assured him that the bank could go on and wait for Congressional action covering the matter. This bank has about one million in paper money outstanding, for which it has in its vaults silver for its redemption. My Secretary of Finance submitted a proposition that the Porto Rican dollars be sent to the United States to be recoined, the expressage each way and loss to be paid by the island; but this was not favorably considered. The only remedy for this money evil or un-

certainty is to withdraw or retire gradually all the Porto Rican money through the custom-house, which would, of course, entail a loss equivalent to the difference between the market value of silver, or about forty-five cents, and the value as fixed by the President, or about sixty cents American. This loss of fifteen cents on the dollar should be borne by the Porto Ricans, as they get the benefit, or, as a favor, equally by them and the United States.

There is in circulation in Porto Rico about five and a half millions of such silver, which would entail a loss of $\$5,500,000 \times .15$ per cent. of this sum,— $\$825,000$,—to be borne by Porto Rico; and this must be the settlement of the matter, to prevent the present unequal or unstable conditions. While this may be easily remedied in Porto Rico or Cuba, near the United States, and with whom will be the principal trade, it will require more study to fix a standard for other colonies at a distance, or where trade is largely with foreign countries; and this will be the study of the financier.

The question may be asked, why the government did not remedy in Porto Rico the evil complained of. My answer is that it was considered a matter for Congressional action; and, on general principles, the rule applies, in any possession thus taken and held by the military, all laws found in force should operate as far as possible,—not to be subject to change, except when necessary, leaving the fixed framing of laws and changes to Congressional action. This latter may be a slow process, but carries with it force and acceptation as compared with any one man's edict.

As to the "Financial Administration" it was as follows:—

All customs received were deposited by various customs officers with de Ford & Co., United States fiscal agents at Ponce and San Juan. This money was put to credit of the governor-general of the island, the custom-house officer retaining enough to pay the expenses of his office. The required treasury reports and returns were made, and, as well, a report to me of deposits made, the fiscal agent also reporting. The accounts and papers of these officials were subject to inspection by treasury officials or specially detailed officers.

Moneys received from the island—internal revenue—were collected separately from customs, and amounts placed to the credit of the Secretary of Finance, who generally made his de-

posits with the Bank of Spain. His papers were likewise subject to inspection. If the account to be paid was to come from the customs moneys, the chief of a department would make out the necessary vouchers, submit them to the Secretary of Finance, who certified to the correctness of the account, and received a check from me, stating purpose of check. The expenditures were covered by vouchers. If the money came from the internal revenue, the Secretary of Finance gave his check on my approval, he requiring vouchers.

There is now a treasurer of the island, who makes out all checks, subject, I suppose, to approval by the governor-general. My plan may have been less business-like, but I preferred assuming all responsibility. In the payment of laborers scattered over the island, money was sent by the engineer in charge of public works, San Juan, to those in charge of various working parties, so as to make certain that the laborer received his pay. Under the former system, others apparently obtained a large proportion of the payments; and from one of the places of payments to be made by one of my officers he reported the laborers were afraid to take the money offered them for fear of the "Alcalde," who had threatened them unless the money passed through his hands, which, if it had been done, would have resulted in some of it *remaining* in his hands.

I had over fifteen thousand men working on roads, so as to improve the island and give employment to the poor, of whom there was a large number, so that over \$100,000 a month was being expended. Moneys for harbor works were checked to the Secretary of Works. The insular police required over \$15,000 a month, checked to its chief and covered by receipt roll of those receiving pay, signed by each officer and private, the laborer doing the same or making his mark with a witness. During my five months' governorship the total received from customs was \$950,000, or an average of \$190,000 a month. My expénditures during the same period were \$629,000, or an average of \$126,000 a month, the principal large items being:—

Sanitary work, San Juan	\$16,000.00
Introducing water	27,000.00
Insular police	35,000.00
Harbor works	26,000.00
Debt due deputation by island	23,000.00
Vaccination of island	28,000.00
Construction of roads	296,000.00

More money was in circulation on the island, and a better feeling of content existed than had ever been known before.

My whole financial system was simple; but whether or not, with every precaution taken, there were not some irregularities, is a question. Honesty was inculcated by example and constant watching, and an insistence on American methods of administration and accountability, as required of all army officers or government officials. The education of these people for years by means and ways so different from our own will have to be overcome by our own instruction, by our best representatives; and, when this is done, the carrying out of any adopted financial administration will be of easy solution.

Ruling on lines of honesty, justice, and morality, with due regard to the personal equation of the people we are governing, will bring with it success. All other methods will be failures, both for ourselves and for our colonies.

III. DEPARTMENT OF JURISPRUDENCE.

IV. WHY LAW SCHOOLS ARE CROWDED.

**BY ISAAC FRANKLIN RUSSELL, D.C.L., LL.D., PROFESSOR OF LAW
IN NEW YORK UNIVERSITY.**

[Read Thursday morning, September 7.]

Law schools are crowded now as never before. In New York City alone there are ten thousand lawyers. In three great law schools in the borough of Manhattan there are seventeen hundred students, and for every attorney engaged in practice there is doubtless at least one student or clerk in the office who is an aspirant to the honors of the profession.

It is hard to account for the rush toward the profession of law which we now see everywhere in the United States, for what has been remarked as true of New York is found to exist in some measure all over the country. Law has the call, evidently. The profession is thought to be genteel. "Admitted to the bar" is a familiar phrase in the biography of noted men. When a great effort is made to eulogize some deceased clergyman, it is very natural to suggest that fame and fortune would have been his, had he proved untrue to his convictions that he should preach the gospel and gone into the practice of the law. But we seldom find this compliment returned. No eulogist of a distinguished jurist ever thinks of saying that his departed friend, great as he was in law, would have been still greater as a divine.

High honors are generously accorded to lawyers. Every President of the United States has been either a soldier or a lawyer, and many of them have been both soldiers and lawyers. In England the highest social distinction awaits the successful advocate. The Lord High Chancellor and the Lord Chief Justice come from the top of the list of barristers. Peerages and pensions gratify their family pride and comfort their old age. Even the Prince of Wales and the royal dukes patronize the law, become admitted to the bar,

and accept the honors of benchers at the inns of court and doctors of law at the universities. While money-getting handicraft is beneath the dignity of a lord of Parliament, and while the dramatic stage, once the most reproached of all the callings, welcomes the bankrupt peer, only law, letters, and theology comport with the high degree of an English aristocrat.

Let us be frank with the clerics. Their standing in England is the very highest. At some functions an ecclesiastic outranks the heir to the throne. The bishops are peers of the realm: some are lords by hereditary right. These right reverend fathers in God have been the educators of princes, teachers in the universities, guardians of classic and legal literature, ornaments of the bench, and shining lights of diplomacy and state-craft.

In America churchmen helped to lay the constitutional foundation of the republic, gave a theological cast to its early jurisprudence, and established its institutions of learning. The alumni records of Harvard and Yale show that those colleges were at first mere training schools for clergymen. During the first twenty years at Yale 65 per cent. of the graduates entered the ministry. In these later years three times as many Yale men study law as enter the ministry. Theological schools rarely make any charge for tuition. Students are generally provided with furnished rooms, rent free. Books and other necessaries are often secured gratis through the aid of benevolent organizations, seldom under heavier conditions than the rendering of missionary service or teaching a Sunday-school class. And yet no one complains that divinity schools are overcrowded. It seems impossible to bribe the ordinary college graduate to study theology, and equally impossible to discourage him from studying law. At the same time there is little hope of getting any early financial return from legal practice. While for office drudgery a small stipend of five dollars a week may be secured under exceptional circumstances, in general a lawyer of good repute can always find college-bred men willing to do clerical work without salary in consideration of the chance offered them to learn the mysteries of practice. Then, too, there is always a demand for young clergymen, but no call for young lawyers; while the church generally offers a furnished home, a sufficient salary, and a generous "donation" once a year to its pastor. The young theologian is at once installed in what is practically called a living, while the youthful jurist remains for years a briefless barrister.

We need not view with alarm the tendencies to over-education. There can never be an overproduction of college graduates, because this would be general and not particular overproduction ; and all economic philosophy scouts the possibility of such a glut. There is no special profession of scholarship. There are many learned professions apart from law, medicine, and theology, as, for example, literature, pedagogy, and journalism. And to these one may devote himself with as supreme a consecration of every faculty to the cause of truth, justice, and humanity as ever distinguished the conduct of the most conscientious priest or missionary.

Men of learning have many things in common. Dr. Woolsey, for instance, for twenty-five years President of Yale College, an educated divine, achieved his greatest literary distinction as a publicist. Rev. Dr. Wharton, an ordained priest, is best known to the world through the dozen or more heavy law books he has written and edited. Angell, White, Schurman, and Low, heads of American universities, have won fame as diplomats. Dr. Lyman Abbott, a trained jurist, brought to Rev. Henry Ward Beecher's pulpit the straight thinking of the man who writes briefs to convince the judgment. Dr. St. Clair McKelway, Mr. George W. Smalley, and many another man famous in journalism, has enlarged and enriched his new calling with the learning of the law. Dr. Hamilton W. Mabie has brought this same culture into the noble field of general literature, and illustrated the value of legal training and erudition as a personal resource and a journalistic accomplishment. Dr. Henry Van Dyke, a faithful pastor of a Christian flock, shows how the man of letters, the story-teller, and raconteur can pass most naturally from the pulpit to the professorial chair.

Mr. Andrew Carnegie, a few years ago, was widely quoted as saying that, if a young man were destined to enter the world of commerce, it would be a mistake to send him to college. Mr. C. P. Huntington has been understood to deplore the too serene reliance on book learning as a preparation for a business career. But Mr. Chauncey M. Depew and others have answered these critics with facts and figures showing that the great prizes of commercial life in the metropolis are drawn by college-bred men. College catalogues, university clubs, biographical encyclopædias, and countless publications exploiting personalities all prove this true.

Ask a member of a college alumni association, some graduate of

twenty years' standing, what he most cherishes of all his memories of Harvard, Yale, or Princeton, and he will answer that it is the rich inheritance of impressions and impulses coming from the human environment of the place. He has taken the college man's view of life, which is never sordid or mercantile, and is always fraternal, generous, and buoyant. The college man who has won his way in commerce always gives his son the best education the boy will take.

Many students attend law schools without intending to practise at the bar, simply seeking legal training for its value to the man of affairs. This is not to be confounded with making every man his own lawyer, and thus saving the cost of hiring an attorney. "Whoever appears for himself has a fool for a client," says an old proverb. The physician appreciates this principle, and seldom attempts to practise on the members of his own family, but secures the services of a brother practitioner. Legal knowledge forearms one, and enables him to escape litigation which the law — in theory at least — abhors, just as an ounce of prevention in medicine is regarded as worth a pound of cure. No physician takes his own prescription, if he can help it; and no priest absolves himself, but, like the Holy Father, confesses to another.

It has been said that there are no classes in America. Politicians salute every voter as the son of a king, and flatter him by the assertion that he belongs to the ruling class. England has a real aristocracy, associated with wealth and education, from whose ranks all ministers and cabinet officers are taken, whether Liberals or Tories. Before the Civil War the slave barons of the South were such an aristocratic or ruling class, with wealth, refinement, and education, as evidenced by the many men of culture whom they contributed to the public life of the nation. Many of our wealthy families in the North have for three or four generations patronized learning and occupied themselves with public affairs. More and more the universities are creating the best forms of both democracy and aristocracy,—the democracy of sentiment and the aristocracy of merit. As men of wealth multiply who are attracted by the charms and honors of the public service, we can but think that their preparation for such a life-work must begin with a study of the law.

Americans believe in education as no other people do. This is proved by the vast endowments given out of private fortunes to

institutions of learning. Then, too, education is not sought here so much as an aristocratic accomplishment marking the man of wealth off from his fellow as it is for its practical usefulness in fighting the battles of life. Some have asserted, not, however, without exciting a spirited dissent from men of much ability and wide observation, that popular reverence for law is greater in America than in any other country. Certainly, the awe of political power is not greater here than in Europe. The army and the police have greater respect abroad; but the judiciary in the United States has an influence unmatched elsewhere and a reverence from small and great alike which is consequently greater. Law, as the output of courts, is therefore more highly respected. Further, we have been taught to rely on legislation and its processes for much of our administration which is given over in continental countries to executive officers.

American faith in law is, perhaps, too great in some directions. No one can regard our law as the perfection of human reason; but many foolishly conceive of law as a force directing public opinion and as a panacea for social ills, creating capital, fixing the hours of toil, determining the value of commodities, and promoting virtue and temperance by prohibitive and repressive enactments. The popularity of legal study is thus in part explained by this universal reverence for law and faith in its administration.

Law is popularly conceived as a body of learning limited to the technicalities of civil and criminal procedure; and the lawyer is ordinarily supposed to appear daily in court, engaged in hot oratorical dispute with an antagonist. The incidents of rural life and practice in the lower courts have produced this impression. However correct the idea may be as to small communities, it is obviously erroneous in the case of a great city like New York, where practice is specialized and where princely incomes are made in the legal profession by men who never addressed either judge or jury. Many a young man is dissuaded from studying law because he lacks the gift of speech and can never rationally hope to attain an eloquent address. But, in truth, men are successfully engaged in the practice of the law whose names seldom appear in print and who never go to court. It has been publicly stated by a man of the highest authority that there are not cases enough on the court calendars in New York City to give each lawyer there one case. When we consider the large number

of actions in which the corporation counsel, the district attorney, and the regularly retained representatives of the sheriff and the railroads appear, we can easily understand how this may be true.

Practice, too, is specialized now as never before. Each lower court has its "attorney-general," or some practitioner whose daily appearances in that forum have given him such stature and eminence among his fellows that the laurels of leadership are unanimously thrust upon him. The business of bankruptcy, admiralty, and patents, within the exclusive jurisdiction of federal courts, is often in the hands of individuals and firms who never take any other kind of professional work. Real estate practice and conveyancing are in many great centres practically monopolized by corporations which insure the legal validity of titles to land, and furnish a policy that guarantees a purchaser or a mortgagee against loss through latent defects and undiscovered liens.

There is, too, a wholesome distrust of trial by jury in civil cases, to which we may refer the growing dislike for litigation. The requirement of unanimity puts the plaintiff at great disadvantage; for, to win, he needs every one of the twelve votes, while the defendant need get the support of only one juror in order to effect a disagreement and prevent a verdict. Many classes of cases, like those involving long accounts, are not easily triable by jury, but demand the silent calculation of a referee in the seclusion of his chambers, away from the turmoil of the court-room. Controversies between business men often involve the unwritten law of exchanges and the well-recognized though unformulated customs of merchants. Boards of arbitration, composed of fair-minded men with the requisite special knowledge, are everywhere efficiently employed in adjusting such difficulties. Chambers of commerce advocate and sustain these non-judicial bodies. So in admiralty no jury is employed, although the law permits it, for the sufficient reason that landsmen do not understand the jargon of the sea, and hardly know enough of a ship to distinguish stem from stern. In fact, an eminent judge in a recent case, writing a learned opinion and referring to the bow of the ship, spelled the word bough.

The academic study of law is as old as the very beginnings of European universities. At Bologna, over eight hundred years ago, the first faculty of instruction that was organized was in the civil and canon laws, and the first of academic degrees — which

are now the principal honors of scholarship — were doctorates in the law. Blackstone's famous "Commentaries" were lectures delivered to undergraduates at Oxford, and Kent's "Commentaries" were written for students at Columbia College.

Still, in our own day and land, the study of law at universities has attained a degree of excellence that has elicited spirited eulogiums from such great authorities as Professor James Bryce, Dr. A. V. Dicey, and the present Lord Chief Justice of England. Students in Paris take more time than we do. In Germany they drink more beer and fight more duels. In England, down to a late day, the supreme test of fitness to be called to the bar has been the eating of a certain number of dinners; and the so-called examination has been a perfect farce, like the Latin dissertation of the candidate for ordination to the ministry.

In a country as large as the United States there are varying standards of professional ability. In some States a degree of M.D. can be obtained on one year's study. Unincorporated institutions have assumed to award honorary degrees and other testimonials of scholarship without legislative grant of authority. In Indiana, under the constitution of that Commonwealth, any man of good moral character may be sworn in at the bar as an attorney and counsellor, without passing an examination and without serving a clerkship in an office or studying law for any prescribed period. In New Jersey, under the Dunn act, so called, a candidate who secures a certificate from five counsellors to the effect that he has unusual aptitude for legal study, may escape the necessity of studying for the period fixed by the general rules, and apply at once for examination and license to practice. Even in New York, where the highest standards are established, it is not unusual for politicians who have influence to apply to the legislature for specific acts, granting exemptions from the examinations in preliminary English studies prescribed by the regents of the university in order to test the capacity of the candidate to pursue profitably a course of legal education.

In New York, forty years ago, an applicant could be admitted to the bar on production of his law school diploma. This system still prevails in many of the States. But for the past twenty years in New York an examination under judicial direction has been required of all applicants. At first law schools opposed the measure which took from them the right to examine their students for ad-

mission to the bar; and some of them took fright at the increased exactions of preliminary general knowledge on the part of students beginning the study of law, as calculated to cut down the number of young men in attendance on lectures. These fears proved groundless; and it soon appeared that, as the requirements for admission to the bar became higher, the number of students in the law schools increased. When real knowledge was demanded, earnest study began at once.

The roll of attorneys is simply a list containing a single unbroken succession of the names of men admitted to practice. Death disbars men, but does not strike their names from this roll of honor. Veterans, like Charles O'Conor, David Dudley Field, and William M. Evarts, survive for many years the period of active practice, and are nominally numbered among attorneys long after they have actually ceased to toil; and the same is true of many others who cherish the memories of forensic triumphs a generation ago, and attend regularly at the office for years after the last client has vanished. I can myself recall two instances where a nonagenarian has continued in active practice a professional career at the bar of New York City lasting over seventy years.

Lawyers are occasionally alarmed at contemplating the vast numbers in the law schools, and speak scornfully of all efforts in the way of university extension and public lectures to popularize the learning of the law, seeming to fear that their monopoly is threatened and retainers and other fees endangered. But there is really no just ground for alarm. The fact is that no one can escape the sanctions of the law. Law follows us from the cradle to the grave. It really antedates the cradle in its protecting care, and provides more thoughtfully than the parent for his child. It gives the unborn son a share in the ancestral inheritance, sometimes a great estate, a title, perhaps a throne and kingdom. It survives the grave, and allows a decedent to stretch out a guiding hand beyond the tomb to control and direct the devolution of a fortune. It abides with the prodigal who would sell his birthright, and for a paltry sum agrees not to sue, and stipulates to divest himself of his priceless heritage in justice and the law of the land. This fool's act is mercifully pronounced void by the courts. Murders and treasons one may avoid, but death and inheritance no one can escape. Law, too, has its message to the bride at the altar, and to the bridegroom, benignant sometimes, but stern and imperious always.

John Austin's conception of law is disapproved by some jurists because it involves the doctrine of external sovereignty imposing its authority on a subject people. It is characteristic of American jurisprudence, both political and private, that sovereignty is lodged with the people, and that rulers are trustees of the people's power, servants simply of a sovereign master, whose commission they hold and to whom they are accountable. Despots may proclaim that the king can do no wrong; but a liberty-loving people, jealous of official prerogative, takes security for the good behavior of public servants, and provides guarantees against the encroachment of arbitrary and spoliative authority. The State itself, just and generous, establishes a tribunal for the injured and oppressed seeking relief from wrongs done under public authority, allows judgment to be entered against the government, and provides for the payment of such claims out of money in the treasury through lawful appropriations. Sovereignty is thus subject to the rule of its own enactment with no more violence to thought and language than is involved in the doctrine that the civilized man is limited by self-imposed restraints, or the mystic sentiment of our Christian faith that even God himself is bound by law.

2. THE ACQUISITION AND GOVERNMENT OF TERRITORY.

BY HENRY WADE ROGERS, LL.D., PRESIDENT OF NORTH-WESTERN
UNIVERSITY.

[Read Thursday morning, September 7.]

International law considers a State as a political community possessed of proprietary rights over a definite portion of the earth's surface. This notion of territorial possession is so essential a part of the conception of a State that it would be impossible for a people without such possessions, no matter how organized and civilized they might be, to be recognized by the jurists as a political community subject to international law.

Among modern States England stands pre-eminent for the success with which she has acquired and retained territory. No larger originally than the State of Illinois, and extending over only 50,000 square miles, England to-day controls an empire 11,000,000 square miles in extent and inhabited by 400,000,000 of people. Benjamin Franklin said of it a century and a half ago that, compared to America, it is "but a stepping-stone in a brook, with scarce enough of it above water to keep one's shoes dry." Yet it is to-day ruler over a larger part of the earth than is possessed by any other people. Other nations have looked on in amazement. In the book "Anglo-Saxon Superiority" a Frenchman speaks of the extraordinary power of expansion which characterizes this race, and predicts that it is destined to succeed the Roman Empire in the government of the world.

The people of the United States belong to this Anglo-Saxon race. They speak the same language, have the same laws, the same religion, and the same traditions as their kin beyond the sea. They have inherited from their ancestors the English respect for law, and they have added to that virtue respect for the rights of man. They have not been land-hungry, and heretofore have been content to mind their own affairs. Hegel, in his "Philosophy of History," wrote, "America is the land of the future, where, in the

ages that lie before us, the burden of the world's history shall reveal itself." The victory won by Dewey at Manila is thought by some to have suddenly transformed the people of the United States, made them willing to disregard their past traditions, and aroused their desire to become "a world power." If so, the United States is to enter upon a foreign policy which is certain in the end to make it bear a large part of the "burden of the world's history."

A desire for territorial acquisition has been the ruling passion of nations. From the discovery of America to the Declaration of Independence the leading powers of Europe found their chief occupation in the colonization of the newly discovered continent. The war for the independence of the thirteen colonies was what Mr. Seward called "the first act in the great drama of the decolonization of the continent."* The end of that drama has not been reached. It is, however, so nearly completed that Great Britain remains the only one of the great colonizing powers which now possesses any part of the continent of North America. The declaration of Monroe, made three-quarters of a century ago, gave notice to the world that no European power could hope ever again to acquire American territory. France was made to realize this fact in 1865 in connection with her intervention in Mexico. And England was taught by Mr. Cleveland's message respecting the Venezuela question that acquisitions of territory which could not be made by direct means could not be accomplished by indirect ones, either.

The United States have not been without ambition for territorial expansion. But their ambition hitherto has been of an entirely different nature from that which has distinguished European States. American statesmen realized from the beginning that there would always be more or less danger of conflict, as well as serious prejudice to the interests and prosperity of the United States, so long as European powers should maintain government in the territory contiguous to their own. They have desired America for Americans, and the termination of European control in the New World. Beyond that their ambition hitherto has not extended.

The territory of the United States, when independence was acknowledged by Great Britain in 1783, was but little greater than

* *Seward's Works*, vol. ii. p. 623.

that of Mexico to-day. The United States began with an area of only 827,844 square miles, and its boundary on the west was the Mississippi River. This territory has been gradually increased until at the beginning of Mr. McKinley's administration it embraced 3,603,884 square miles. The first increase of territory came during Jefferson's administration, when in 1803 the Louisiana territory was ceded by France for \$15,000,000. The additional territory thus acquired amounted to 1,171,931 square miles. The next increase was made under the Monroe administration, when Florida was ceded in 1819 for \$5,000,000. The territory obtained was 59,268 square miles. Then followed under the Tyler administration in 1845 the annexation of Texas, which added 376,133 square miles. In 1848, during the administration of Polk, California and New Mexico were ceded by Mexico for \$15,000,000. This enlarged the area of the United States by 545,783 square miles. Then in 1853, under the administration of Pierce, Arizona was ceded by Mexico for \$10,000,000, and territory was secured amounting to 45,535 square miles. Another increase came during Johnson's administration when in 1867 the territory of Alaska was obtained from Russia for \$7,200,000, and the area of the United States was enlarged by 577,390 square miles.

The increase of territory which resulted from these various accessions amounted to 2,776,040 square miles, and there was paid for the same \$52,200,000. The first cession of territory made to the United States, that by France, is the greatest in area of any this country has received. The next largest is that from Mexico, the various cessions made by that country amounting to 650,586 square miles. The Russian cession comes next, and that made by Spain is the least in amount of any, until we come to the McKinley administration. Since the United States entered upon its career as a nation, no cession of territory has been received from Great Britain. The two nations together possess the continent of North America, Great Britain holding a slightly larger portion of it than the United States.

The annexation of Texas was accomplished despite the diplomatic interference of some of the European powers. In his first annual message to the Congress, President Polk called attention to British and French interference in the matter, and expressed his satisfaction "that the almost unanimous voice of the people of

Texas has given to that interference a peaceful and effective rebuke." * The rapid expansion of the United States was attracting the attention of Europe, and some of the powers were beginning to broach the doctrine of a "balance of power" on the American continent as a check to our advancement. In his message Polk emphatically declared that the "balance of power" doctrine would not "be permitted to have any application on the North American continent, and especially to the United States." In his inaugural address he had previously declared that the annexation of Texas was a question with which foreign nations had no right to interfere or to take exception to. "Foreign powers," he added, "do not seem to appreciate the true character of our government. Our Union is a confederation of independent States, whose policy is peace with each other and all the world. To enlarge its limits is to extend the dominions of peace over additional territories and increasing millions. The world has nothing to fear from military ambition in our government." †

There was a time when it was seriously claimed that the national government had no power of acquiring foreign territory. The opinion was advanced that, when the government of the United States was formed, it was predicated on the condition of things then existing, and that, while new States might be admitted into the Union, they would have to be States formed out of the old States or out of territory that was then possessed.‡ Jefferson himself entertained this opinion; and in a letter written Aug. 9, 1803, he said: "Our confederation is certainly confined to the limits established by the Revolution. The general government has no powers but such as the Constitution has given it; and it has not given it a power of holding foreign territory, and still less of incorporating it into the Union." § He supposed at the time he negotiated the treaty for the purchase of Louisiana that he had acted in excess of his powers, and that an amendment to the Constitution would be necessary to ratify and confirm what had been done. To one who had written him, expressing the opinion that an amendment was unnecessary, Jefferson replied:—

I am aware of the force of the observations you make on the power given by the Constitution to Congress to admit new States

* President's Message, vol. iv. p. 387. † Ibid., p. 380.

‡ See Adams's History of the United States, vol. ii. p. 78.

§ Jefferson's Writings, vol. viii. p. 262.

into the Union without restraining the subject to the territory then constituting the United States. But, when I consider that the limits of the United States are precisely fixed by the treaty of 1783, that the Constitution expressly declares itself to be made for the United States, . . . I do not believe it was meant that [Congress] might receive England, Ireland, Holland, etc., into it,—which would be the case on your construction. . . . I had rather ask an enlargement of power from the nation, when it is necessary, than to assume it by a construction which would make our powers boundless. Our peculiar security is in the possession of a written Constitution. Let us not make it a blank paper by construction. I say the same as to the opinion of those who consider the grant of the treaty-making power as boundless. If it is, then we have no Constitution.*

Madison, at the time Secretary of State, shared in the conviction of Jefferson that the Constitution should be amended. John Quincy Adams entertained a like opinion.† But, when the treaty came under discussion in the House and Senate, it was agreed, without distinction of party, that the United States possessed the power to acquire new territory either by treaty or by conquest under the war power.

Uriah Tracy, of Connecticut, said, "I have no doubt but we can obtain territory either by conquest or compact, and hold it, even all Louisiana and a thousand times more, if you please, without violating the Constitution." He went on, however, to declare his conviction that annexed territory could only be held as property, and that States could not be carved out of it and admitted into the Union "except by universal consent of all the States." In this he was supported by the Federalists. The Republicans, on the other hand, while agreeing that under the treaty-making power territory could be acquired, inclined to the opinion that such territory became a part of the general territory mentioned in the Constitution, and might be formed into a State and admitted as such into the Union in the usual manner or otherwise disposed of as the general welfare might require.‡ The theory advanced by the Federalists was one of imperialism, and would have resulted in colonies and empire. That advanced by the Republicans meant unification and assimilation. Not that the Federalists were in favor of acquiring foreign territory to hold as colonies, but only that, if such territory was once acquired, it was necessary so to

* Jefferson's Works, vol. iv. p. 505.

† Adams's Memoirs, vol. i. p. 287.

‡ Adams's History of the United States, vol. ii. p. 114.

treat it. "A new territory and new subjects," said Griswold, of Connecticut, "may undoubtedly be obtained by conquest and by purchase; . . . but they must remain in the condition of colonies, and be governed accordingly."

Whatever doubt may at one time have been entertained as to the constitutional power of the government of the United States to acquire territory, the fact soon came to be conceded that its right to do so was not open for question. Chief Justice Marshall settled it for all time when, in 1828, in the case of *American Insurance Co. v. Canter*,* he said: "The Constitution confers absolutely on the government of the Union the powers of making war and of making treaties. Consequently, the government possesses the power of acquiring territory, either by conquest or by treaty."

The expansion of the United States has been accomplished by various methods.

1. Territory has been acquired by treaties of cession. Most of the accessions of territory received by the United States have been secured in this way, beginning with the Treaty of Paris of 1803 with France and ending with the Treaty of Paris of 1898 with Spain.

2. Territory has also been acquired by a joint resolution admitting it as a State into the Union. There has been but one instance in which this has occurred, and that was in the case of Texas. It was originally intended to secure the annexation of the republic of Texas by a treaty which had been negotiated with it. The ratification of the treaty by the Senate it had been found impossible to secure, and annexation was accordingly accomplished in the manner mentioned. The constitutionality of this action was seriously disputed at the time by leading statesmen. It must be admitted that the course pursued was most unusual, and that it was altogether extraordinary for two independent nations to determine their relations with each other by a joint resolution of the law-making body instead of by the action of that department of government which is charged with the administration of foreign affairs. But probably no one to-day will seriously question the legality of the action taken. The Constitution confers upon Congress the power to admit new States into the Union, and in the exercise of that power Texas was admitted. No usurpation of power was involved in the transaction.

3. Territory again has been acquired by a joint resolution of Congress. This was the course pursued in the annexation of Hawaii. It was the first time in the history of the government when such a method was resorted to, and it was adopted in this case only because it was found impossible to secure in the Senate the two-thirds vote required to ratify its annexation by treaty. The case differs from that of Texas in that the latter was acquired by a resolution admitting it into the Union as a State, but the Hawaiian resolution involved the acquisition of territory as territory. The constitutionality of the procedure was vigorously denied, and among others by Senator Bacon, of Georgia. In alluding to Senator Bacon's argument, Senator Spooner, of Wisconsin, a leading constitutional lawyer of the Senate, and a member of the Republican party in power at the time, declared: "I have never heard, nor do I expect to hear, a satisfactory answer to the argument submitted by the senator from Georgia [Mr. Bacon] upon the constitutionality of that proposition."*

The resolution of annexation reads as follows:—

Whereas the government of the republic of Hawaii having in due form signified its consent in the manner provided by its constitution to cede absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies, and also to cede and transfer to the United States the absolute fee and ownership of all public, government, or crown lands, public buildings or edifices, posts, harbors, military equipment, and all other public property of every kind and description belonging to the government of the Hawaiian Islands, together with every right and appurtenance thereunto appertaining, therefore,

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That said cession is accepted, ratified, and confirmed, and that the said Hawaiian Islands and their dependencies be, and they are, hereby annexed as a part of the territory of the United States, and are subject to the sovereign dominion thereof, and that all and singular the property and rights hereinbefore mentioned are vested in the United States of America.†

The resolution was adopted in the House by a vote of 209 ayes to 91 nays, 55 not voting. It passed the Senate by a vote of 42 ayes to 21 nays, 26 not voting. It was approved by the President on the day following.

This was the first time in the history of the United States that

* Congressional Record, 55 Cong., 3d Session, p. 1376.

† United States Statutes at Large, vol. xxx. p. 250.

territory not a part of the continent of North America nor contiguous thereto had been annexed. The wisdom of annexing it was questioned by some of the leading men in the dominant party. The Speaker of the House, Mr. Reed, was understood to be strongly opposed to it. Mr. Morrill, of Vermont, also a member of the dominant party, spoke against the resolution, and said:—

My firm conviction, however, is that annexation of distant islands is not in harmony with the Constitution of the United States, but is conspicuously repugnant thereto; nor is it in harmony with the history or even with any of the recorded opinions of our earliest and ripest statesmen. . . . Let me hope that I may never part with my profound reverence for the eminent statesmen who constructed the Constitution of our republic; and I shall also hope to be pardoned if I should not turn the pictures of the faces of those eminent Americans to the wall, and flout their memory, whose wisdom has guided the great achievements of our country through its first century, although they, "rich in saving common sense," flatly refused the doubtful achievement of annexing distant foreign islands.

4. Congress has recognized the right to acquire territory by occupancy. In 1856 Congress passed what is generally known as the Guano Islands Act. It provides that, when any citizen of the United States shall discover a deposit of guano on any island, rock, or key, not within the lawful jurisdiction of any other government, and not occupied by the citizens of any other government, and shall take peaceable possession thereof or occupy the same, said island, rock, or key, may, at the discretion of the President of the United States, be considered as appertaining to the United States. In accordance with this legislation, certain Guano Islands in the Caribbean Sea are now regarded as appertaining to the United States.*

We have advanced from a time when it was doubted whether the United States possessed any power to acquire territory to a time when it is asserted that its power to do so is without restriction as to the method of acquisition or the purpose to which the territory is to be devoted or the contiguity of the same to the American continent. The United States of America can hold territory, it is claimed, in Europe, Asia, or Africa. The theory is that, while the United States has no power as to internal and

* U. S. Rev. Stats., §§ 5570-5578; Sect. 137 U. S. 202, 209.

domestic relations except such as the Constitution specifically grants, yet as respects external and international relations it possesses all the power which any sovereign nation possesses, except as the Constitution has otherwise provided by its prohibitions.

Whether all the territories ceded to the United States by Spain are to be permanently retained is one of the questions of the future. The Treaty of Paris narrowly escaped defeat in the Senate, having but one vote to spare. The opposition to it was based in the main upon the cession of the Philippines. Some of the senators who voted for the ratification of the treaty were opposed to the permanent retention of the islands. Among the number was Senator Spooner, of Wisconsin, a member of the Administration party. That senator placed the following declaration upon the records :—

Every argument which has been made in support of this doctrine of territorial expansion — and by “territorial expansion” I mean permanent territorial expansion — seems to me to be superficial, some of them sentimental, and some of them fantastic. The jingle of words which we read every day, about hauling down the flag, does not in the least either thrill me or impress me. Our flag has been hauled down before, Mr. President. It will be hauled down again.*

On Feb. 14, 1899, eight days after the ratification of the Treaty of Paris, the Senate by a tie vote, 29 to 29, declined to pass the following resolution :—

That the United States hereby disclaim any disposition or intention to exercise permanent sovereignty, jurisdiction, or control over said islands, and assert their determination, when a stable or independent government shall have been enacted therein, entitled in the judgment of the government of the United States to recognition as such, to transfer to said government, upon terms which shall be reasonable and just, all rights secured under cession by Spain, and to thereupon leave the government and control of the islands to their people.

It is a noteworthy fact that this resolution received the affirmative vote of Senator Gray, of Delaware, one of the commissioners who negotiated the Treaty of Paris.

A vote was thereupon taken on what is known as the McEnery resolution, which passed by a vote of 26 to 22, Senator Gray again voting in the affirmative. That resolution is as follows :—

* See Congressional Record, 55 Cong., 3d Session, p. 149⁺ (vol. xxxii., part 2).

That by the ratification of the treaty of peace with Spain it is not intended to incorporate the inhabitants of the Philippine Islands into citizenship of the United States, nor is it intended to permanently annex said islands as an integral part of the territory of the United States; but it is the intention of the United States to establish on said islands a government suitable to the wants and conditions of the inhabitants of said islands, to prepare them for local self-government, and in due time to make such disposition of said islands as will best promote the interests of the citizens of the United States and the inhabitants of said islands.

When the treaty with Russia for the cession of Alaska was negotiated in 1867 by Secretary Seward, the small number of civilized people then residing in the territory, and its geographical situation and climate, which did not invite emigration, appear to have prevented any serious consideration of the possibility of its ultimate admission as a State. The treaty contains no provision upon the subject. The Treaty of Paris of 1898, in which Spain cedes to the United States Porto Rico "and other islands now under Spanish sovereignty in the West Indies, and the island of Guam in the Marmas, or Ladrones," and "the archipelago known as the Philippine islands," is also silent upon the question whether these islands or any of them are ultimately to be admitted into the Union as States. The same thing is true of the resolution by which the annexation of Hawaii was completed.

But another question arises in this connection. In the exercise of the power to acquire and hold territory, is the United States restricted to the acquisition of such territory as it proposes ultimately to organize into States and admit into the Union, or may it acquire and retain what it proposes permanently to hold as dependent territory,—territory which is not to be organized into States, but governed as a colonial dependency?

All the treaties made by the United States for the acquisition of territory, prior to the one made with Russia in 1867 for the acquisition of Alaska, have been negotiated with the view of ultimately organizing such territory into States which shall be admitted into the Union. In all these treaties of cession—that of Paris for the cession of Louisiana in 1803 by France, that of 1819 for the cession of Florida by Spain, that of Guadalupe Hidalgo for the cession of New Mexico and California by Mexico in 1848, and the Gadsden Treaty of 1853 for the cession of Arizona by Mexico—provision was specifically made for the ultimate organization of the territories thereby acquired into States.

Many American statesmen have held the theory that all territory acquired by the United States, except such as might be acquired for coaling stations, the correction of boundaries, and for similar public purposes, must be acquired and governed with the view of eventually organizing it into States to be admitted into the Union. They have vigorously combated the doctrine that there is any right in the United States to acquire territory with the view of establishing a colonial system.

This view of the matter finds support in a dictum of Chief-Justice Taney's. In delivering the opinion of the Supreme Court of the United States in the famous case of *Scott v. Sandford*,* the learned chief justice said :—

There is certainly no power given by the Constitution to the federal government to establish or maintain colonies bordering on the United States or at a distance, to be ruled and governed at its own pleasure ; nor to enlarge its territorial limits in any way, except by the admission of new States. That power is plainly given. . . . But no power is given to acquire a territory to be held and governed permanently in that character. . . . The power to expand the territory of the United States by the admission of new States is plainly given ; and in the construction of this power by all the departments of the government it has been held to authorize the acquisition of territory not fit for admission at the time, but to be admitted as soon as its population and situation would entitle it to admission. It is acquired to become a State, and not to be held as a colony and governed by Congress with absolute authority. . . . A power, therefore, in the general government to obtain and hold colonies and dependent territories over which they [the United States] might legislate without restriction would be inconsistent with its own existence in its present form. . . . It [the federal government] has no power of any kind beyond it [the Constitution] ; and it cannot, when it enters a territory of the United States, put off its character and assume discretionary or despotic powers which the Constitution has denied it.

Thomas M. Cooley, a former president of the American Bar Association, and during his life the leading constitutional jurist of the United States, in an article contributed to the *Forum* in 1893, in which he discussed the question of Hawaiian annexation, said :—

Now outlying colonies are not within the contemplation of the Constitution of the United States at all. The structure of govern-

* 19 Howard, 393, 446 (1856).

ment created under it never had in view such colonies, and the people of the United States would never have consented to provide for our holding them. Our government is not suited to that purpose. The proposal that we should vie with England and France and Germany in establishing colonies in distant quarters of the globe would now be scouted at once by the people and by Congress as being altogether foreign to our institutions.

He went on to say : —

There is no indication in the Constitution itself or in any of the actions or discussions which led up to its formation that the people of the day contemplated any other condition of things than a Union composed of contiguous States made up of people mainly of one race, with territory held in common by them, to be governed under Congressional authority while on its way through increasing population to the formation of other such States, and to admission to the Union on an equal footing with the original States when the proper maturity had been reached. This was the general plan of the Union ; and all the terms of the Constitution, when applied to it, are fully satisfied. Anything proposed under the treaty-making power that, if carried into effect, would change this condition of things, and especially anything that would make of the nation the ruler of outlying States or colonies or territory not acquired with any expectation of being brought into the Union or not capable of becoming harmonious members of a family of contiguous States constituting together one common country, would seem to be as much by implication forbidden as would be anything that directly antagonized provisions of the Constitution itself.*

Judge Baldwin, the President of this Association and a former president of the American Bar Association, puts the matter as follows : —

Can the United States of America ever include a State erected on islands off the coast of Asia, and having no possible tie of connection with the American continent? I believe that to this a negative answer may be safely given. Can they, then, annex such islands to a union into which they can never enter on equal terms? This question cuts deeper than the one propounded to the Supreme Court of the United States in the Dred Scott case. The opinion given then was that we could not acquire any American territory to hold permanently as a dependent province. If that position be unsound, it would not follow that islands appertaining to another continent could be so acquired and held.

To acquire, of course, is one thing, and to keep another. I believe we have unquestionable power to acquire the Philippines

* *Forum*, vol. xv. pp. 389, 393, 398.

as the spoils of war, but a conqueror is not bound and may not be able to retain what he receives.*

This is an argument which may properly be addressed to the treaty-making power, when the question of the acquisition of territory is under consideration. But, after territory has been once acquired, it is not an argument which can be addressed to the courts with the view of having the acquisition set aside as invalid. Courts cannot enter upon an investigation of the motives by which the treaty-making power is actuated in acquiring territory, neither can they inquire as to the purposes to which the territory is ultimately to be devoted. The question of whether territory should be annexed is a political one, and must be decided by the executive and legislative departments; and the action of these departments will not be set aside by the judicial department.

In the treaties of cession which have provided for the ultimate organization of the territory acquired into States of the Union the obligation thus imposed has in no instance been of such a nature that Congress could at any time have been compelled to pass a measure carrying the agreement into effect. In every instance the discretionary authority of Congress has remained unimpaired, that body having the right to be the sole judge of the time, circumstances, and conditions under which the territory was to be organized as a State and admitted as such into the Union. The exclusive right of Congress to decide the matter has either been expressly declared in the treaty of cession or implicitly assumed in the language employed.

The United States has the power to govern the territories which it acquires. The right to govern may be derived from the power to acquire. The power of governing is the inevitable consequence of the right to acquire.† It would be absurd, as Justice Bradley once said, to hold that the United States has power to acquire territory and no power to govern it when acquired.‡ It has the entire dominion and sovereignty over all its territories. But the question arises whether, in legislating for the territories, Congress is subject to the limitations contained in the Constitution. The Imperialists claim that the powers of Congress are not so restricted, that the territories are no part of the United States, and that the Constitution does not apply to them. In 1849, when the

* *Harvard Law Review*, February, 1899, p. 409.

† See 6 Cranch, 336. ‡ See 136 U. S. 42, 44.

question of establishing territorial governments was under consideration in the Senate, the doctrine was asserted by Mr. Dayton, of New Jersey, Mr. Hale, of New Hampshire, and Mr. Webster, of Massachusetts, that the powers delegated to Congress did not and were not designed to extend to the territories.

Mr. Calhoun, replying to Mr. Webster in that discussion, said: "Sir, I repeat it, that the proposition that the Constitution of the United States extends to the territories is so plain a one, and its opposite — I say it with all respect — is so absurd a one, that the strongest intellect cannot maintain it."

In the same debate he declared, "It [the Constitution] is the supreme law, not within the limits of the States of this Union merely, but wherever our flag waves,— wherever our authority goes, the Constitution, in part, goes,— not all its provisions certainly, but all its suitable provisions."*

In 1885 the Supreme Court through Mr. Justice Matthews says, in *Murphy v. Ramsey*, 114 U. S. 15, 44, that Congress in governing the territories exercises supreme power over them and their inhabitants, "subject only to such restrictions as are expressed in the Constitution or are necessarily implied in its terms, or in the purposes and objects of the power itself." It declares that "the personal and civil rights of the inhabitants of the territories are secured to them, as to other citizens, by the principles of constitutional liberty which restrain all the agencies of government, State and national." This doctrine is quoted with approval by Mr. Justice Bradley in the *Mormon Church v. United States*, 136 U. S. 1, 42, 44, 58, 67 (1890).

In 1897 the Supreme Court of the United States, in *Thompson v. Utah*, 170 U. S. 344, say, "That the provisions of the Constitution of the United States relating to the right of trial by jury in suits at common law apply to the territories of the United States is no longer an open question." The court cites a number of cases which establish that principle beyond dispute.†

The Treaty of Paris of 1898 differs from every treaty of cession heretofore negotiated by the United States in that it does not provide that the inhabitants of the ceded territories are to become citizens of the United States. It provides that "the civil rights and political status of the native inhabitants of the territories

*Calhoun's Works, vol. iv. pp. 535, 536, 541. See also vol. iv. p. 496.

† *Webster v. Reid*, 11 How. 437, 460; *American Publishing Co. v. Fisher*, 166 U. S. 464, 468; *Springville v. Thomas*, 166 U. S. 707; *Reynolds v. U. S.* 98, U. S. 145, 154.

hereby ceded to the United States shall be determined by Congress." The joint resolution of Congress under which the annexation of Hawaii was accomplished also makes no declaration as to the citizenship of the inhabitants of the islands.

Under the Fourteenth Amendment to the Constitution all persons born in the United States and subject to the jurisdiction thereof are citizens of the United States; and, if they reside within a State, they are citizens of that State as well as of the United States. Birth within the territory of the United States confers citizenship, with the following exceptions: —

1. The children of foreign sovereigns or their ministers.
2. Children born on foreign ships within our territorial waters.
3. Children of enemies born within and during a hostile occupation of our territory.
4. The children of members of Indian tribes owing direct allegiance to their several tribes.*

The exceptions named arise from the fact that persons so born are not within the jurisdiction of the United States. The Indian tribes have been regarded as separate nations with which the government has dealt as treaty powers.†

If the Constitution applies to the territories, the provision referred to makes all children born in the Hawaiian Islands since their annexation, as well as those born in the territories ceded by Spain after the signing of the treaty of peace, citizens of the United States. The declaration of the Paris Treaty that the status of the inhabitants of the ceded territories is to be determined by Congress cannot suspend the operation of the Fourteenth Amendment. They have been born within the United States and subject to its jurisdiction, and as such they are citizens of the United States. As citizens, they will be entitled to whatever right of suffrage may be conceded to persons living within these newly annexed territories. For the right of a citizen of the United States to vote cannot be denied or abridged on account of race, color, or previous condition of servitude.‡ They are entitled to claim all the privileges and immunities of a citizen of the United States,§ and included therein is the right to pass from one part of the country to the other. No State of the Union can exclude them. And, as Justice Field decided in a case which came

* See *U. S. v. Wong Kim Ark*, 169 U. S. 649, 653.

† See *Cherokee Nation v. Georgia*, 5 Peters, 1.

‡ Fifteenth Amendment.

§ Fourteenth Amendment.

before him, no citizen can be excluded from the United States except as a punishment for crime. "Exclusion," he said, "for any other cause is unknown to our laws, and beyond the power of Congress."*

When we inquire as to the present status of those who were inhabitants of the ceded territories at the time of cession or annexation, we find that a somewhat perplexing problem is presented. In a case which involved the status of the inhabitants of the territory of Florida under the treaty of cession by Spain, Chief Justice Marshall held that the language of the sixth article of the treaty had the effect of at once admitting the inhabitants to the enjoyment of the privileges and immunities of citizens of the United States. He then added, "It is not necessary to inquire whether this is not their condition independent of stipulation." As no stipulation upon the subject was made when Hawaii was annexed, the question has now, and for the first time in our history, become a pertinent one. Do the inhabitants of an annexed territory, whose allegiance is transferred by their former sovereign, at the time of the loss of their old citizenship acquire a new citizenship in the country to which they have been annexed, there being no stipulation upon the subject in the articles of cession? Is not every person from whom the United States claims full allegiance entitled to be considered as a citizen of the United States? We must await the answer of the Supreme Court of the United States to that inquiry. The question is a grave one, and it merits serious consideration.

The question as to those who were at the time of cession the inhabitants of the islands ceded to the United States by Spain is a still different one. Assuming that a transfer of allegiance is a transfer of citizenship, can the acquisition of citizenship be defeated by a stipulation in the Treaty of Paris, which relegates to Congress the right to determine the political status of the natives of the ceded territories? Can a person be without citizenship or does he have citizenship somewhere as he has domicile somewhere? If we say that these natives are citizens of the territories in which they reside, does it not follow that, if these territories are a part of the United States, these people are citizens of the United States? These territories have no national character independent of the United States. It is to the United States that

**In re Look Tin Sing*, 21 Fed. R. 905, 911 (1884).

the inhabitants of these territories must appeal for protection when abroad. The United States holds that a person cannot have two nationalities.* Is it prepared to assert that he can be without any nationality? Can the United States, in depriving the Filipinos of their Spanish nationality and denying to them a nationality of their own, withhold from them citizenship in the United States? Those who deny that the Constitution *ex proprio vigore* extends to territories, and who insist that a special act of Congress is necessary to bring an annexed territory under its provisions, tell us that the native inhabitants of these territories — both those born before and those born after the cession — are not entitled to be considered as citizens of the United States. But those who deny the correctness of their premise cannot be expected to accept the soundness of their conclusion.

It is asserted by the advocates of an imperial policy that territory may be acquired and held by the United States without becoming subject to the general revenue system established by Congress under that clause of the Constitution requiring all duties, imposts, and excises to be uniform throughout the United States. This claim is based upon the language used by Chief Justice Taney in *Fleming v. Page*,† which came before the Supreme Court in 1850. It was decided in that case that a port in the belligerent occupation of the United States does not thereby become a part of the Union, but remains a foreign port, and that duties may be properly levied upon goods imported therefrom into the United States. But the Chief Justice, after declaring that "this construction of the revenue laws had been uniformly given by the administrative department of the government in every case that had come before it," went on to say: —

"And it has, indeed, been given in cases where there appears to have been stronger ground for regarding the place of shipment as a domestic port. For after Florida had been ceded to the United States, and the forces of the United States had taken possession of Pensacola, it was decided by the Treasury Department that goods imported from Pensacola before an act of Congress was passed enacting it into a collection district, and authorizing the appointment of a collector, were liable to duty. That is, that, although Florida had, by cession, actually become a part of the United States, and was in our possession, yet, under our rev-

* Foreign Relations, 1891, p. 752.

† 9 Howard, 603.

venue laws, its ports must be regarded as foreign until they were established as domestic by act of Congress. And it appears that this decision was sanctioned at the time by the Attorney-General of the United States, the law officer of the government; and, although not so directly applicable to the case before us, yet the decisions of the Treasury Department in relation to Amelia Island, and certain ports in Louisiana, after that province had been ceded to the United States, were both made upon the same grounds. And in the latter case, after a custom-house had been established by law at New Orleans, the collector at that place was instructed to regard as foreign ports Baton Rouge and other settlements still in the possession of Spain, whether on the Mississippi, Iberville, or the seacoast. The department in no instance that we are aware of, since the establishment of the government, has ever recognized a place in a newly acquired country as a domestic port, from which the coasting trade might be carried on, unless it had been previously made so by act of Congress.

"The principle thus adopted and acted upon by the executive department of the government has been sanctioned by the decisions in this court and the circuit courts whenever the question came before them. We do not propose to comment upon the different cases cited in the argument. It is sufficient to say that there is no discrepancy between them. And all of them, so far as they apply, maintain that under our revenue laws every port is regarded as a foreign one, unless the custom-house from which the vessel clears is within a collection district established by act of Congress, and the officers granting the clearance exercise their functions under the authority and control of the laws of the United States."

On the other hand, there is the case of *Cross v. Harrison** which was decided by the same court three years after the decision in *Fleming v. Page*. The facts in the case of *Cross v. Harrison* are as follows: In the war with Mexico the port of San Francisco was conquered by the arms of the United States in 1846, and shortly afterward this government had military possession of all Upper California. In 1847 the President as commander-in-chief of the army established a military government over the conquered territory. A war tariff was established under the direction of the Secretary of the Treasury, and was enforced until the military

* 16 Howard, 164, (1853).

governor was officially notified that a treaty of peace had been made with Mexico, and that Upper California had been ceded to the United States. Upon receiving this intelligence, the governor directed that duties should hereafter be levied in conformity with the general tariff law of the United States. Congress had not passed an act to extend the collection of tonnage and import duties to the ports of California. The action of the governor was upheld; and it was held that the duty was properly paid under the tariff laws of the United States, and that money so paid could not be recovered. The opinion of the court contains the following statement of the law: "By the ratifications of the treaty, California became a part of the United States. And, as there is nothing differently stipulated in the treaty with respect to commerce, it became instantly bound and privileged by the laws which Congress had passed to raise a revenue from duties on imports and tonnage." *

Chief Justice Marshall, in *Loughborough v. Blake*,† decided in 1820, expressed the opinion the term "United States," in that clause of the Constitution which requires all duties, imposts, and excises to be "uniform throughout the United States," included the territories as well as the States. "Does this term," he asked, "designate the whole or any particular portion of the American Empire? Certainly, this question can admit of but one answer. It is the name given to our great republic, which is composed of States and territories. The District of Columbia or the territory west of the Missouri is not less within the United States than Maryland or Pennsylvania; and it is not less necessary, on the principles of our Constitution, that uniformity in the imposition of imposts, duties, and excises, should be observed in the one than in the other."

The truth of the matter would seem to be that Congress, in the exercise of the power to lay and collect duties, imposts, and excises, must so frame the law that all duties, imposts, and excises shall be uniform throughout the United States; that the term "United States" includes all annexed territory; that, where an act of Congress is necessary to include newly annexed territory within a collection district, it is plainly the duty of Congress to enact such legislation, and its failure to do so would result in a condition of things contradictory to the intent of the Constitution. After a

* *Ibid.*, p. 197.

† 5 *Wheaton*, 317.

treaty of cession has been ratified, duties can be fixed by action of the President as the head of a military government established by him; but such action is only a temporary expedient, and cannot be of permanent nature. That Congress, when it comes to legislate upon the subject, cannot establish one tariff law for Hawaii or for Porto Rico and a different one for the remainder of the United States, but the law which it enacts must be uniform throughout all our possessions.

So far as the statutes of the United States are concerned, it is conceded that the geographical limits of federal statutes are the national boundaries on the day of enactment. If our domain is expanded, our statutes are not *ex proprio vigore* expanded also. The Dingley tariff, for example, is limited in its operation to the area of the United States as it existed July 24, 1897. To give it force in the territories subsequently acquired, a special act extending it is necessary. But any tariff law that Congress enacts hereafter will apply to all territory previously acquired.

3. THE TENDENCY OF THE COURTS TO SUSTAIN SPECIAL LEGISLATION.

* BY HON. JOHN WOODWARD, JUSTICE NEW YORK SUPREME COURT.

[Read Thursday morning, September 7.]

There will be no attempt to deal with the problems of that "higher law," so eloquently discussed by Mr. Seward in the stormy years of debate that foreran the War of the Rebellion, nor yet to suggest the limitations which should govern in the interpretation of the Federal Constitution in dealing with great national problems. Lucian, the great Greek writer, who practised the profession of law at Antioch, where the disciples were first called Christians, before there were any Christians, lays down the rule, "Quidquid multis peccatur, inultum est" (The guilt which is committed by many must pass unpunished); and this limitation upon the law has been recognized in all nations in all times.

To suppose that written constitutions or judicial decrees can stand in the way of national destiny, or that any duty rests upon the judiciary to interpret the Constitution so that it shall appear as a barrier in the pathway to the highest evolution of the national life, is to suppose the finite to transcend the Infinite, and to be guilty of an egotheism at once impious and impracticable.

All of the edicts which have issued since the strong assumed dominion over the weak, before tradition began in rude and imperfect accent to chant the story of past events, could not have opposed a single obstacle to the awful impact of Goth and Vandal upon the war-worn nations of Europe. All of the constitutions since written in the blood and sacrifice of lofty aspiration, supported by all the decrees that have been handed down by judicial tribunals since society called on wisdom to sit in judgment on the failings and mistakes of men, could not have stayed the avenging hosts who swarmed the highways of Europe, following the cross toward the desecrated tomb of the Saviour, moved as by a common impulse by the persuasive oratory of Peter the Hermit. Not all of these could have stood before the invincible hosts who

followed the banners of Oliver Cromwell, the maddened populace who overturned the monarchy of France, or the aroused public conscience which demanded the overthrow of slavery in the American republic.

These are matters of the collective people, the creators of constitutions, the force which gives energy to law, without which the profoundest declarations are the absurdest of declamations.

This truth is recognized in our own Constitution, the tenth amendment, adopted at the first session of Congress after the ratification, declaring that "the powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the States respectively, or to the people"; and, while it was undoubtedly intended that this reserved power should remain inoperative unless subsequently delegated in the manner pointed out by the Constitution, there can be no doubt that there is a power higher than the Constitution, and that that power may be invoked or exercised whenever the general welfare, as voiced by the people, demands that the imposed limitations shall give way to national needs.

What may be the duties of the federal judiciary in dealing with these problems of national development may be safely left to the times and the circumstances under which they are presented; and it will be sufficient at this time to say that the Constitution, under an appreciative interpretation of the broad provisions for shaping the national policies, will not be found wanting in scope for the accomplishment of the high ideals held by those who framed the instrument, or in dealing with the new problems by which we are now confronted.

We come, then, to the consideration of State constitutions, and the attitude of the courts toward some of the inhibitions which the people have seen fit to impose upon the legislative power. There are no questions of State or national life involved. We are not called upon to consider what might be the duty of the courts if the problems presented dealt with the destiny of nations, but, recognizing that these are matters which have passed to the jurisdiction of the federal government, and appreciating the purposes of constitutions, to inquire to what extent the judiciary is warranted in going in giving force to statutes cunningly devised for the purpose of evading the inhibitions of the fundamental law of the State.

No principle of jurisprudence is better established than that the courts will not attempt to pass upon the expediency of legislation where it is not in conflict with the constitution. The rule is laid down that, the legislative power having been delegated to the senate and assembly, it is not for the courts to say that the legislature has abused the discretion vested in it by the constitution, and the only remedy for those who suffer from an improper exercise of the legislative function is to be found through legislative rather than judicial channels. There can be no quarrel with this rule. It is obviously the only one consistent with our form of government when dealing with matters within the purview of the legislature ; and, if it were extended so that it should deny to both the legislature and the courts the right to judge of the expediency of matters which the people in their high sovereign capacity have withdrawn from legislative discretion, there would be no occasion for this discussion to-day.

The difficulty has been that, while the courts have been willing to sustain the legislature, they have been reluctant to support the will of the people. They have sustained, upon grounds of expediency, legislation which the wisdom of the people has discountenanced, and the power to enact which has been denied in the highest legislation known to our State.

This has resulted, not from any intention on the part of the courts to disregard the mandates of the people, but upon the theory that the acts of the legislature were entitled to the presumption of being within the limitations of the constitution, and a failure to recognize that the people had in fact acted upon these questions.

Unwilling to impute bad faith to the legislature, the courts have closed their eyes to the common knowledge of men familiar with the course of legislation, and have given the same latitude to construction in favor of local legislation which would be extended to general acts.

Local legislation is not entitled to this consideration, because, in the common experience of mankind, it does not receive the attention of the legislature in that degree which entitles it to the presumption of having been deliberately enacted. Local legislation, while going through all of the forms, is, in point of fact, almost wholly the act of two individuals, the member of assembly from the district interested and the member of the senate whose dis-

trict embraces that of the moving assemblyman. The measure, if it affects only the district (and this is the real test of the local character of the bill), is passed as a matter of courtesy to the member, upon the theory that, if he wants it, and is willing to accept the responsibility, there is no reason why the representatives of other districts should interfere. The bill does not, in a majority of cases, represent the judgment of the member moving it, but is the work of more or less influential citizens in some one of the towns within the limits of his district, who want to take advantage of the taxing power of the community to promote private ends.

The result is that legislation of this character, while conforming to the formalities, is, in effect, that of irresponsible individuals; and, as the work to be accomplished is for the promotion of selfish ends, it carries with it all of the vicious tendencies of those who originated the measure, and is thus brought within the reason of the rule, "Verba chartarum fortius accipiuntur contra proferentem" (The words of an instrument shall be taken most strongly against the party employing them). And, in giving construction to the act, the courts are justified in taking the language most strongly against the originators of the legislation, and in applying the test, not to the good faith of the legislature, but of those who have sought the sanction of the State for the carrying out of their private or semi-private enterprises.

The essentially vicious tendency of local legislation was early discovered in this State; and the second constitution, adopted in 1822, attempted to remedy the difficulty by providing that "the assent of two-thirds of the members elected to each branch of the legislature shall be requisite to every bill appropriating the public moneys or property for local or private purposes."

It is apparent that this did not prevent encroachments upon the public funds for the purpose of promoting private schemes; for we find that the matter engaged the attention of the constitutional convention which met in 1846, resulting in the provision that "no private or local bill which may be passed by the legislature shall embrace more than one subject, and that shall be expressed in the title." This, it was believed, would call the attention of the members of the legislature to the real purposes of the measure, and would prevent the abuses which had been growing up; but it failed to recognize the real difficulty, and the

provision was practically useless. The bills of a local character continued to be enacted as a matter of comity between members. They went through the processes just as readily when the real purpose was disclosed in the title as before, the only conditions being that the bill should affect only the constituents of the movers, and that it was desired by the members whose constituents asked for its passage.

This was the condition when the constitutional convention met in the city of Albany on the fourth day of June, 1867, to begin the work of revising and amending the fundamental law of the State; and on the twelfth day of July of that year Erastus Brooks introduced a resolution declaring that it was the judgment of the convention that the legislature should not pass a private or local bill in any of the enumerated cases, giving the list substantially as it is found to-day in Article III., Section 18, of the constitution.

In presenting the resolution, Mr. Brooks called attention to the fact that "the governor of the State has signed nearly 1,000 bills passed by the legislature of 1867, only 230 of which were of a public nature; and many even of these are of a trivial character." It would be tedious and of no practical utility to follow the course of this resolution through the convention. It is enough to say that with some eliminations in the schedule of prohibited subjects it became a part of the proposed constitution submitted to the people in 1868, when the work of the convention, with the exception of the judiciary article, was rejected. There was, however, a general conviction growing up among the people that the evils of private and local legislation were becoming intolerable; and in 1872 a constitutional commission, consisting of "thirty-two distinguished citizens," was created, and the most important work of this commission was the submission of Sections 17 to 25, both inclusive, of Article III. as it stands to-day in the constitution of this State, to the people for their ratification. The amendments were adopted by a vote of the people on the third day of November, 1874, Section 18 reading as follows:—

The legislature shall not pass a private or local bill in any of the following cases:—

Changing the names of persons.

Laying out, opening, altering, working, or discontinuing roads, highways, or alleys, or for draining swamps or other low lands.

Locating or changing county-seats.

Providing for changes of venue in civil or criminal cases.

Incorporating villages.

Providing for election of members of boards of supervisors.

Selecting, drawing, summoning, or impanelling grand or petit jurors.

Regulating the rate of interest on money.

The opening and conducting of elections or designating places of voting.

Creating, increasing, or decreasing fees, percentage, or allowances of public officers during the term for which they are elected or appointed.

Granting to any corporation, association, or individual the right to lay down railroad tracks.

Granting to any private corporation, association, or individual any exclusive privilege, immunity, or franchise whatever.

Providing for building bridges and chartering companies for such purposes, except on the Hudson River below Waterford, and on the East River, or over the waters forming a part of the boundaries of the State.

Here are thirteen distinct subjects which have been considered by the people in the exercise of that sovereignty reserved to the States, and in reference to which the legislative power has been restricted. The sovereign power has said that the legislature shall not pass a "private or local bill" in reference to these matters; and the courts have no right to inquire as to the wisdom of this action on the part of the people or to disregard the mandate, when called upon to review the action of the legislature in respect to any of these subjects. The mere fact that in a particular instance no wrong is done, or that the welfare of a given community is promoted by local legislation, has no right to enter into the consideration of the case. The people, after long experience and many experiments, have decided the question of expediency for themselves; and it is not for the courts to review this determination where it is not in conflict with any higher law.

The fact that twenty-six States in this Union have followed the example of New York in respect to private or local bills, while adding nothing of force to the argument, is interesting as showing the wide extent of the evils, and the concurrent judgment of different communities as to the wisdom of the inhibitions. It is a recognition of the truth that

"Diseases, desperate grown,
By desperate appliance are relieved,
Or not at all."

Whether there was a better way of reaching the difficulty, whether it was wise or expedient to restrict and belittle the legislative power in respect to these matters, is not for us to determine. It is not an open question to us, more than it is to the courts. We have only to do with the fact that the highest legislative authority in the State, which within the limits fixed by the Federal Constitution is sovereign and above the courts, has decided the limitations within which the legislature shall deal with these questions ; and, when the representatives of the people go beyond the demarcation fixed by this power, it is the duty of the courts to forbid the enforcement of such statutes, without any reference to the question of expediency or policy of any given enactment. This proposition is self-evident; and it is due to the courts to say that where the legislature has, in apparent disregard of the inhibitions, undertaken to enact private or local bills, as in the case of Chapter 554 of the Laws of 1885, which authorized the building of an experimental elevated railroad in one of the duly authorized streets of the city of New York, they have not failed to declare them null and void. The difficulty has been with those bills which have been drawn with special reference to these limitations upon the power of the legislature, and which have been cunningly devised to make them general in language and in apparent scope, while limited in actual practice to the particular district of the member introducing the measure, and generally to a very small portion of that territory, as to particular cities, towns, or villages. Take, for example, Chapter 311 of the Laws of 1894, which provides as follows :—

If a domestic corporation has heretofore, in pursuance of an express authority of a statute of this State, constructed and is now operating a bridge over a river which for its entire length forms a part of the boundary of this State, and if there be in such river a waterfall more than one hundred feet in height, and if the land of such corporation adjoin a State reservation, such corporation is hereby authorized to establish, construct, and maintain another bridge over such river, below such waterfall, at or near such present bridge, and not more than five hundred feet northerly therefrom, and the necessary approaches, for the passage of pedestrians and vehicles ; and such corporation may lay tracks upon such new bridge and its approaches for the passage of electric, cable, or horse cars, and may operate street-cars upon the same by electric, cable, or horse power, or any other locomotive

steam power, for the conveyance of passengers and property for compensation.

Here is a statute drawn in general language. It applies to the State in general, so far as appears from the words of the statute; and yet every intelligent man knows that it could not be made to apply to any location in the State of New York except within a distance of five hundred feet of the old suspension bridge at Niagara Falls. This statute granted to a private corporation the right to lay down railroad tracks; and, if it was a private or local bill, it was inhibited by the constitution. If it was a general act, then the statute was a valid exercise of the legislative power. This particular statute has never been before the courts; but it indicates to what lengths the framers of bills for selfish purposes have gone in the effort to come within the rule early laid down by the courts in dealing with these inhibitions, that "a law which relates to persons or things as a class is general, but one which relates to particular persons or things of a class is special and private." This rule was asserted in the Matter of the New York Elevated Railroad Company (70 N. Y. 350); and the reasoning in that case has been relied upon to sustain much of the same class of legislation, though in the principal case the question of local legislation was not necessarily involved, the act being an amendment of a general statute which provided for the organization of new companies, the court declaring that "the act is thus made applicable to companies to be formed and to existing companies, and is thus made as general as it can be." To show the reasoning which the court adopted in the early case now under consideration, and which was decided in 1877, in the third year after the inhibitions of the constitution became operative, the following excerpt may be given:—

But it is claimed that there was but one elevated railway in actual operation at the time of the passage of the act, and hence that it must be deemed that the legislature had sole reference to that. It was well said by Allen, J., in *People v. Albertson* (55 N. Y. 50) that no motive, purpose, or intent can be imputed to the legislature in the enactment of a law other than such as are apparent upon the face and to be gathered from the terms of the law itself.

Another learned judge of this court has said : —

We are not made judges of the motives of the legislature, and the court will not usurp the inquisitorial office of inquiry into the *bona fides* of that body in discharging its duties. (*People v. Draper*, 15 N. Y. 532). It is not to be presumed or inferred that the legislature intended to violate or evade the constitutional constraints. The law does not specify any particular elevated steam railway in actual operation, but in its terms applies to any and all such railways anywhere in operation. How are we to know that there was but one in operation at the time of the passage of the act? Can a court take proof for the purpose of showing a statute valid and regular upon its face to be unconstitutional? And does the validity of a law which is required to be general, and which is general in its terms, depend upon the number of subjects upon which it can operate or upon the size of a class to which it applies?

This line of reasoning, while not necessary to the decision of the case then before the court, has been made use of in subsequent decisions, with the result that much legislation, entirely beyond the authority of the legislature, has been sustained by the court of last resort. If the learned jurist who wrote the prevailing opinion in this case, and who quotes approvingly from the opinion of Judge Allen in *People v. Albertson*, had been content to follow the reasoning in the latter case, in so far as it was not outside of the question necessary to be decided, there would undoubtedly have been an earlier realization of the reform which was contemplated when the people enacted that the legislature should not pass private or local bills for carrying out the selfish purposes of individuals and localities. After using the language quoted in the opinion of the court in the elevated railroad case, Judge Allen in the Albertson case, in discussing the effort of the legislature to create the "Rensselaer police district," which sought to evade the requirements of Section 2 of Article X. in reference to the selection of local officers by the people of the several subdivisions of the State, says : —

A written constitution must be interpreted and effect given to it as the paramount law of the land, equally obligatory upon the legislature as upon other departments of government and individual citizens, according to the spirit and intent of its framers, as indicated by its terms. An act violating the true intent and meaning of the instrument, although not within the letter, is as much

within the purview and effect of a prohibition as if within the strict letter; and an act in evasion of the terms of the constitution, as properly interpreted and understood, and frustrating its general and clearly expressed or necessarily implied purpose, is as clearly void as if in express terms forbidden. A thing within the intent of a constitution or statutory enactment is, for all purposes, to be regarded as within the words and terms of the law. A written constitution would be of little avail as a practical and useful restraint upon the different departments of government if a literal reading only was to be given it, to the exclusion of all necessary implication, and the clear intent ignored; and slight evasions or acts, palpably in evasion of its spirit, should be sustained as not repugnant to it. The restraints of the constitution upon the several departments among which the various powers of government are distributed cannot be lessened or diminished by inference and implication; and usurpations of power, or the exercise of power in disregard of the express provisions or plain intent of the instrument, as necessarily implied from all its terms, cannot be sustained under the pretence of a liberal or enlightened interpretation, or in deference to the judgment of the legislature, or some supposed necessity, the result of a changed condition of affairs.

The section of the constitution under which this case arose provides that "all city, town, and village officers, whose election or appointment is not provided for by this constitution, shall be elected by the electors of such cities, towns, and villages, or by some division thereof, or appointed by such authorities thereof as the legislature shall designate for that purpose." The legislature had previously created the Metropolitan Police district, embracing substantially the territory now known as Greater New York, authorizing the governor to appoint the five commissioners of police, with the advice and consent of the Senate; and this act had been sustained by the courts upon the grounds that the legislature was not inhibited the power to create new districts, distinct from the existing municipalities, and to permit the governor to make such appointments. This case had been followed in *People v. Shepard*, where the legislature had raised a police district to consist of portions of Albany and Rensselaer Counties and the city of Schenectady, including the lines of the New York Central Railroad between Albany and Schenectady. When, however, the legislature enacted Chapter 638 of the Laws of 1873, by which it undertook to provide a police force for the city of Troy, to be appointed by the governor, by creating a new police district to consist of the

city of Troy and a few acres of practically unoccupied territory beyond its boundaries, the courts recognized the fact that the measure was designed to circumvent the policy of home rule which the constitution had sought to establish; and the act was declared unconstitutional, the court in its opinion strongly criticising the decision in the case of the *People v. Draper*, which was the leading one in support of the new system of special police districts. It was in reference to this case that the court used the language quoted above, which is merely an elaboration of a rule older than our own jurisprudence, "Quando aliquid prohibetur, prohibetur et omne per quod deventitur ad illud" (When anything is forbidden to be done, whatever tends or leads to it, as the means of compassing it, is forbidden at the same time).

Keeping in mind this rule, we may fairly say that, when a bill is so drawn that it cannot be made to operate outside of a given locality, when the conditions enumerated are so minute and particular that it cannot by any reasonable probability become effective outside of the district of the member moving the measure, it becomes a local bill. It is local because its general provisions are controlled by those of a special and particular character; and it is in conflict with the constitution when within the list of inhibited subjects, because the people, acting in their sovereign legislative capacity, have forbidden the enactment of this kind of bills, and because, having forbidden it, every act which tends to or leads to the compassing of the purpose is forbidden. The measure bearing upon its face the evidence of having been designed to avoid the letter of the constitution, it being obvious that the special conditions have been inserted for the purpose of restricting the operation of the bill to a particular locality, and thus to prevent opposition to its passage under the rules of legislative comity, it comes within the reason of the maxim of common law, that the king can do no wrong.

The king is the State, and the legislature is the representative of the sovereignty of the State. Therefore, whatever is amiss in the public affairs is not to be imputed to the sovereign so as to render him accountable to the people. The prerogative of the sovereign extends not to do any injury, because, being created for the benefit of the people, it cannot be exerted to their prejudice; and it is therefore a fundamental general rule that the sovereign cannot sanction any act forbidden by law. The king, moreover, is not

only incapable of doing wrong, but even of thinking wrong. Whenever, therefore, it happens that by misinformation or inadvertence the sovereign has been induced to invade the private rights of any of his subjects, as by granting any franchise or privilege to a subject contrary to reason or in any way prejudicial to the commonwealth or a private person, the law will not suppose the sovereign to have meant either an unwise or an injurious action, but declares that the king was deceived in his grant; and thereupon such grant is rendered void, merely upon the supposition of fraud and deception either by or upon those agents whom the sovereign has thought proper to employ. (1 Blackstone, 246.) Where the bill is so drawn that it may not be expected to affect the interests of the constituents generally, and where it may defeat the intention of the constitution by permitting purely local affairs to be administered under an act general in its language, but local in its purpose, the courts may properly repudiate the act under this common law maxim, without, in any manner, passing upon the integrity or the intentions of the legislative representatives of the sovereign. They have been deceived. The bill is announced to the legislature as a private or local bill. It has been passed with the understanding that it affected only the interests of those who resided within the district of the moving member, and that is its clear intent and purpose. As to such measures, the people, speaking through their constitution, have said that the legislature shall not pass a private or local bill; and the mere fact that the language of the measure is general does not take it out of the inhibition. Being local, it is entitled to none of the presumptions which go in support of the deliberate acts of the legislative body. The very fact that it is accompanied by limitations intended to restrict its operation in such a manner as to avoid discussion or objection is evidence of the fraudulent nature of the enactment, and raises the presumption that it is the work of individuals seeking to promote interests other than those of the people generally, and as to which the legislature has expressed no opinion. If the enactment invades the private rights of any of the subjects of the sovereign power, as by granting any franchise or privilege contrary to reason or in any way prejudicial to the commonwealth or a private person, it is void at common law. In this State and in many others the granting of these privileges or franchises is inhibited by the fundamental law, except in those cases where the

acts are general and public in their character; and it is not necessary to show they are against reason. It is sufficient if they are included in the list of inhibited subjects.

In 1881 the legislature enacted Chapter 554 of the laws of that year, which provided that the board of supervisors in any county containing a city of 100,000 inhabitants, where territory within such county and beyond the limits of the city had been mapped into streets and avenues in pursuance of law, could by resolution or enactment provide for establishing a plan of their grades, and pay-out, open, grade, and construct the same, and to provide for the estimation and award of damages and for the assessment of benefits. This legislation was objected to in the courts on the ground that the bill was a local bill; but the courts held that it was a general act within the meaning of the constitution, which provides in Section 27 of Article III. that "the legislators shall, by general laws, confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the legislature may from time to time deem expedient." The courts say that "the class consists of every county in the State having within its boundaries a city of 100,000 inhabitants, and territory beyond the city limits mapped into streets and avenues." That a measure applying alike to all cities of a given number of inhabitants is general there can be no reasonable doubt; but when we go beyond classification, and add description, we are treading on dangerous ground. Whatever may have been the justification for sustaining this act as a general act under the provisions of Section 27 of Article III. (and the evil sought to be avoided was reduced to a minimum where the action of the board of supervisors was necessary to carry out the scheme), it has afforded a precedent for much of vicious legislation; and the matter of the application of Church (92 N. Y. 1) has been cited in support of almost every violation of the constitutional inhibitions from its decision in 1883 to the present time, and it is still the established law of the State, except as it is limited and modified by the decision in the Matter of Henneberger (155 N. Y. 420), which was reached by a divided court.

In this latter case, Chapter 286 of the Laws of 1897 was under consideration. It was entitled "An Act to provide for the widening and improving of highways in towns having a total population of 8,000 or more inhabitants, and containing an incorporated

village having a total population of not less than 8,000 and not more than 15,000 inhabitants." In addition to this title the statute provided that "in any town having a total population of 8,000 or more inhabitants and containing an incorporated village having a total population of not less than 8,000 and not more than 15,000 inhabitants, except in the county of Madison, any five or more persons owning land adjoining or abutting on any highway which extends within the limits of such town and without the limits of such incorporated village for a distance of at least two and one-half miles may present to the Supreme Court thereof, at a special term to be held in the county containing said town, a petition for the appointment of three commissioners for the purpose of widening and improving such highway or a specified portion thereof, not less than two miles and a half in length, such portion being wholly without the limits of such incorporated village."

The question of the constitutionality of this act came before the appellate division of the Supreme Court in the second department in January, 1898, and was held by the court to be void, the court declaring that "this act is an effort to evade the constitution, to nullify the agreement on the part of the people, each with the other, that local legislation in reference to highways shall not be enacted; and it cannot, therefore, receive the sanction of the court." One of the learned justices dissented on the ground that the decision was in conflict with the *Matter of Church*; and the case went to the Court of Appeals, where it was sustained by a divided court, four for affirmation and three for reversal, the prevailing opinion laying down the rule that where "restriction is imposed upon restriction, until, as in the present case, its generality is hidden and impossible, the courts should not hesitate to declare its invalidity." This leaves the law in an uncertain state; for there is a difference only in degree between the two cases, and the future must determine just how many restrictions can be imposed upon a classification without coming into conflict with the fundamental law of the State.

The reaction has set in. The courts have called a halt upon this class of legislation, just as they did in the legislation which sought to violate the policy of home rule in the selection of local officials, and we may hope, if we do not confidently expect, that the future utterances of judicial tribunals will be in the direction of sustaining the declared will of the people rather than the

fraudulent legislation of individuals bent on promoting private interests at the expense of the public. Pennsylvania, which has a similar provision in its constitution, has taken a firm stand in favor of giving vitality to the fundamental law in respect to local legislation; and the tendency of the courts, both in the States and in the nation, seems to be in the direction of a larger protection of individual and community rights against the encroachments of legislation. This is particularly noticeable in the recent decisions of the United States Supreme Court in respect to questions involving the police power, "due process of law," etc.

In England, and in many of the States of this Union, it is necessary for those seeking private or local legislation to advertise the fact in the newspapers in the locality to be affected for a period of several weeks in advance of the session of the legislature at which the concession is to be asked; and this rule applies to all matters which are not of a general and public nature. In England the matter is sent to a standing committee; and there can be no action upon the measure until it has been fully investigated, and until all parties whose interests are involved have had an opportunity to be heard.

The process of securing private and local legislation in that country is surrounded by conditions which would not be tolerated here, in all probability; but it is not too much to ask that the courts shall insist upon a full compliance with the letter and the spirit of the constitution, and that they shall not hesitate to condemn all efforts to secure local legislation under the guise of general laws. We contend for no new rule of law. We ask only that the legislative agents of the people shall be subject to the rules which are laid down for the government of individuals in respect to the statutory law that, "when anything is forbidden to be done, whatever tends or leads to it, as the means of compassing it, is forbidden at the same time." An inhibition by the sovereign power upon the legislature is certainly as obligatory as the valid enactments of that body are upon the individuals within the jurisdiction of the State; and where the measure bears upon its face the evidence of having been drawn in general terms for the purpose of overreaching the constitution while confined to local districts, by reason of the conditions imposed, it is as much the duty of the courts to interpose to prevent the consummation of the fraud upon the sovereign and the wrong upon individuals or com-

munities as though the act was in all respects local in its character, and enacted in obvious disregard of the provisions of the constitution. In other words, the courts should forbid the prostitution of the constitution to the designs of selfishness under any pretext whatever. If the object sought to be accomplished is of real public importance, if the principles sought to be put into practice are such as promise to promote the welfare of the State, they are such that they may be brought about by general laws, or they may be postponed until the public necessity requires the amending of the constitution; but, so long as that instrument is the guide by which the affairs of the State are to be conducted, it is unwise, if not unpatriotic, to permit its plain terms to be disregarded by any cunning jugglery of words. Whether any particular local improvement is made or not is of only the most incidental importance compared with the preservation of the constitution in all its vigor, and the continued confidence of the people in the integrity, wisdom, and good faith of the judiciary.

The constitution is the great contract between the people of this State, the conditions of which have all been performed on the part of the people; and we have a right to demand at the hands of the courts specific performance on the part of the legislative agents of the sovereign power.

The judiciary, as a co-ordinate branch of the government, while owing respect to the legislative department, is bound to see to it that that body does not transcend the limitations fixed by the higher legislative will of the State; and this duty equally requires that the enactments shall be free from fraud upon the sovereign power.

An aroused public conscience is always useful in giving vigor and efficiency to the administration of the law; and we, as citizens, owe it to the State that we discountenance all efforts at overriding the constitution, either for the purpose of promoting our own private ends or the supposed needs of our communities. Let us insist on all occasions that, in the administration of the affairs of this State, the legislature shall keep within the limits fixed by the people, and that the courts shall stand guard at the boundary line, and forbid encroachment upon the rights of the people as defined in the fundamental law of the State.

At the close of the morning session on Thursday the following debate ensued, chiefly with reference to the question of expansion as raised by the papers of President Rogers and Mr. Samuel Parrish :—

Mr. MCKELWAY.—I wish to ask if the McEnery resolution, which did so narrowly pass the Senate, passed the House.

Professor RUSSELL.—I do not think it was voted on in the House.

Mr. BARTLETT, Member of Congress from Georgia.—The resolution passed the Senate, was brought over to the House, and referred to the Committee on Foreign Affairs; and there it was pigeonholed.

Mr. MCKELWAY.—Is it not fairly maintainable that, in the colonization of territory or the admission of States, a joint resolution is, at least, as good as by treaty, if not better, because it secures the action of the House of Representatives, the immediate representative of the people, the source which the Constitution names as the one whence appropriation bills can originate; and it therefore defines the Chamber of the People as against the Chamber of the States from the necessity of making the appropriations for a policy which the Chamber of the People might not approve. I have thought always that the admission of Texas was happy, that the acquisition of the Sandwich Islands was happy. I should more readily have preferred the treaty of Paris to have been by joint resolution than this combination of two-thirds of the Chamber of the States with the President and Secretary of State, whom that President can change four times a day if necessary. I would like to get the ideas of Georgia and Wisconsin as to that.

Mr. BARTLETT.—The question propounded by the gentleman is one of very serious consideration, and I would not like to enter into any extended or limited discussion without some preparation more than I have had. I agree with the gentleman myself that it would be a happier and more satisfactory way, it appears to me, for the admission of States. I belong to the old time, and believe we should stand by the Constitution in all things until it is changed, and that it should be changed only when it becomes necessary in the way that the Constitution provides it should be changed. There was some discussion in the House upon this treaty of Paris with reference to the acquisition of the Philippines, some discussion in the House as to the right of the House to participate in making this treaty that way; and it has been maintained by lawyers and suggestions made by one or two decisions of the Supreme Court of the United States—I cannot recall them—that, while the Senate and the Executive were the treaty-making power, yet, as the House was to be called upon to pay the money with which to comply with the requisitions of the treaty or the terms of the treaty, that the treaty was not complete, or should not be considered complete, until the House voted the money. I was one of that forty-four who voted against the treaty. While I did not take the view that the House had the right under the Constitution to participate in the making of the treaty, yet, as we had to be called upon to vote the money, twenty millions, to carry out that treaty, I took that occasion to enter my most earnest protest against the treaty by voting against the

twenty millions that we should pay to Spain. I believe with you, sir, that, if it were possible that the constitutional provision could be changed, it would be more satisfactory to the people of this country if the representatives in the popular branch of Congress could be heard before determining what should be done in the case of acquisition of territories rather than simply the Executive and the Senate should be the only ones to determine that.

Mr. PARRISH.—There are many who are controlled by words in the present, although they are ultimately dominated by facts. Take, for instance, the dictum of Judge Taney; and I am glad, in justice to Judge Taney, that it was a dictum, and not a decision of the court. Judge Taney was later the author of a decision backed by a majority of the Supreme Court of the United States, and we all know that that decision finally brought before the American people was overthrown. In the line of what has just been said, fortunately for the interests of the country, the Supreme Court of the United States has been composed of statesmen as well as lawyers. In other words, the Presidents, in the exercise of their discretion, have appointed broad-minded men as justices of the Supreme Court, and not mere attorneys. The result has been that the whole history of our government has been legislation of the Supreme Court under judicial framers. I wish to call your attention to what I conceive to be the fact in the case of this country to-day. That is, we are in process of peaceful revolution because of facts which dominate the case; and, so far as the Supreme Court is concerned, I am convinced that that body, composed as it is, will ultimately find a way out of all these troubles that our friends have depicted, and, if they do not, we will have to secure an amendment to the Constitution, because I am convinced that it is a condition, and not a theory, in regard to our position in respect to the races of the world.

Mr. SANBORN.—I think that the present crisis in this country very properly brings up those constitutional questions which President Rogers has brought forward. And I wish that the gentlemen who undertake to speak on this question, in speaking about facts, would pay some attention to the history of their country. The fact is that any attempt now to overrule the action of the States, as such, in the decision of national questions, is directly contrary to the purpose of the framers of the Constitution; and the position of the Senate as representing the States is not an accidental position, but it is a position designedly framed into the Constitution, because the Constitution was made by States, and was intended to preserve, to a certain extent, as far as compatible with national sovereignty, State sovereignty. So as to the judicial function. The framers of the Constitution designedly laid down that the functions of government of the United States were not to be performed by the President or by the judiciary, but by Congress. And I also wish to call your attention to the fact that the United States of America are the Congress. They are not the President, not the Supreme Court, not the governors of the States; but they are the Congress of these United States, which does govern this country. When gentlemen undertake to say that the Supreme Court of this country has a right to legislate, they may state what is ethically and philosophically true, but it absolutely contradicts the Constitution of the United States. Those are the facts. All these questions were considered by Hamilton, Madison, Jefferson, and Washington. They are not new questions.

They are not brought up here to be settled by lawyers practising in the courts of the States or of the United States. They are to be settled by the purposes of the framers of the Constitution as appears in the Constitution. And, when gentlemen talk of changing the Constitution or popular law, that expression is right, provided you will follow the forms laid down in the Constitution. What is the difference between the British Constitution and the American Constitution. People seem to talk as if the American Constitution was simply a written form of the British Constitution. It is a form of laws laid down, which can only be changed, unless broken, by forms prescribed in the Constitution itself: whereas the British Constitution is simply a matter of precedent on one hand and popular will on the other. Nothing intervenes between the will of the English people and any policy which they may adopt except the precedent of former Parliaments and the decision of its courts.

In the Civil War certain States seceded and rebelled. Of course, they invited the arbitrament of war, and war is hostile to all rules and to all constitutions; but whatever was done under force of arms was formally ratified by amendments to the Constitution, and so it must be here held, or else the Constitution must be set aside. Mr. Madison maintained, and maintained strongly, that the House should have a voice in deciding this important question of treaties. The Constitution does not settle it, except it provides that treaties shall be made by the President by consent of two-thirds of the Senate. As to the propriety of annexing by joint resolution, I do not think the examples we have had of it are calculated to bring the method into favor. The President has a constitutional power. Every sovereign that has a Constitution has a constitutional power. And the President of the United States seems to be lately neglecting his constitutional power in not allowing the United States and its courts to decide important questions, and is exercising his unconstitutional power to make these decisions and settle these questions before Congress and the courts have an opportunity to act upon them. It may be right or wrong, but it is not constitutional when any President of the United States or the Supreme Court of the United States step one jot beyond the limits of that paper. There are sometimes important questions, such as the safety of the people, when they have a right to exceed the Constitution. Some people say that the Constitution is of very little account. Perhaps it is; but I apprehend that, before the Constitution is materially altered, we shall see as bloody a war as on the slavery question. I do not believe that the American people have forgotten the principles which made this country a nation. I believe that the Declaration of Independence is as much respected and worshipped by the most of our people as ever, and that they are willing to fight and die for it as much as ever.

Mr. PARRISH.—I did not mean legislation in the sense it has been taken. I mean this: that a practical interpretation of the Constitution is necessary.

Dr. ANDERSON.—There is one little matter to which I wish to refer, which I hope President Rogers will refer to; and it is this,—the pivotal importance of the meaning of the term "United States." I think he mentioned a decision which had been made. If that term "United States" includes the Philippine Islands, then great difficulties arise before us, which, it seems to me, we might escape if we could limit the meaning of that term. I do not see any escape

from the conclusion which President Rogers stated. If the term includes the Philippine Islands and all our other possessions, then those who live there must be considered citizens of the United States; and the problem becomes very much more difficult. I suppose we will have to retain possession of the Philippines in some way; but the prospect of receiving millions of people into our embrace, and they to have the same legal privileges which we have, is appalling, and I should like to know whether there is any escape from that formidable difficulty.

Mr. HUMPHREY, of New York.—If I remember rightly, Jefferson wrote the Declaration of Independence, or at least has that credit; and also he was the first President of the United States who directly violated the Constitution in the matter of the Louisiana purchase. I would like President Rogers to explain that question.

Mr. ROGERS.—I would answer that question by saying I do not understand that President Jefferson *did* violate the Constitution of the United States. I understand he had a perfect right to do what he did do. In answer to the question of the gentleman from Brooklyn I want to say that I understand that, in all governments, questions of cessions of territory and acquisition of territory are considered questions to be disposed of by that department of the government which has charge of foreign affairs. I understand under our system of government the President and Senate are charged with that administration of foreign affairs. I think the acquisition of the Hawaiian Islands could have been accomplished by treaty, and not by vote of the two Houses of Congress. I believe that the acquisition of the Hawaiian Islands by joint resolution is contrary to the Constitution. I do not care to discuss the question of policy or expediency. Whether it is safer or otherwise to allow the House of Representatives to have a voice, I do not care to discuss. I do not think that is a question for us. The question is the constitutional method of doing things.

I did not affirm in my paper that the inhabitants of the ceded islands are citizens of the United States. I said I regarded that as a very serious and grave question and one I would not presume to answer. I do not think anybody can satisfactorily answer it until the Supreme Court has passed upon it. It opens up a very wide field. It means a great deal to this country, if those people are citizens of the United States. Our courts have decided that, if persons did not belong to the black race or the white race, they could not be naturalized. In reference to the very question asked by the gentleman from Brooklyn as to the colonization of territory not intended to be admitted as States, let me say I simply cite the opinions of Judge Taney and Judge Cooley, for the purpose of showing that some of the most learned men in the legal profession have held to that theory,—that the constitutional power did not exist to acquire territory except to make States out of. I do not think that the opinion of Chief Justice Taney on the face of that question is to be discredited by the fact that he announced a decision of the court on the question of slavery that has been discredited. I may say that very much has been misunderstood in the popular mind as to Judge Taney. As matter of fact, every lawyer here knows that from Chief Justice Marshall there never has been a chief justice of the United States who stands higher in the respect of the

legal profession than Chief Justice Taney, a man of high character, and his purity of life and living have never been questioned. If anybody has read the eulogy of Mr. Justice Curtis, who dissented in the Dred-Scott case, he knows his standing in the legal profession. And Judge Cooley's decision is not to be discredited because Alaska was acquired afterwards. The courts decide a great many things that they ought not to do and have no power to do. They have blundered and blundered, and there is a great line of cases in the United States where the opinion of the courts has been set aside because they have improperly construed the Constitution of the United States. The fact that Alaska has been received in that way does not discredit the opinion of Judge Cooley that it is an improper exercise of the constitutional power.

Mr. MCKELWAY.—In the Constitution occurs the expression "in the United States or in any places subject to their jurisdiction." What are those other places that are not the United States?

Mr. ROGERS.—The United States has no jurisdiction of the high seas; but, if it is an American vessel on the high seas, the United States has jurisdiction over.

Mr. SANBORN.—The language quoted was not in the original Constitution, but it is in the Thirteenth Amendment. It was added for the purpose of forever excluding slavery from any territory that might be acquired. That language was added to the Thirteenth Amendment, and became a part of the amendment, and was ratified by the States in that form.

Mr. BALDWIN.—Allow me to suggest that an answer might be found in historical events occurring prior to the adoption of the Thirteenth Amendment, and similar ones then thought possible in the future. One was the extension of the authority of the United States — under an act of Congress in 1856, to which President Rogers has referred in his paper — over the Guano Islands. The statute which was passed in that year, with reference to that subject, declares that, whenever any vacant island is discovered by an American citizen on which there is a deposit of guano, and that island is not in the actual possession of any foreign power, the discoverer may apply to the President stating his discovery, and ask that the island may be declared under the jurisdiction of the United States; and thereupon the President is authorized to proclaim that it is subject to the jurisdiction of the United States for the time being, not permanently to be incorporated into the United States, but until the discoverer or his grantee can take the guano off. While that process is going on, the island is subject to the jurisdiction of the United States for the purpose of removing the product of guano. Suppose the colony was at work there and a murder was committed, the murderer would be punished under the laws of the United States, because that island was subject to its jurisdiction; but it does not form a part of the United States. The same may be said of Pango in the island of Samoa where we have a naval station by treaty. Congress has recently appropriated a quarter of a million to improve Pango harbor. That place is subject to the United States, but it is not a part of the United States.

Chairman RUSSELL.—I wish to dissent from Mr. Sanborn in the doctrine laid down by him that the Congress of the United States is the United States; also, with reference to the reproach which has been brought at least by impli-

cation against the President of the United States. President Lincoln has been referred to as a most patriotic officer, but I remember well the method by which the necessary vote was secured for the ratification of the Thirteenth Amendment. In order to get that vote, it was necessary to create a State. It was practically nothing but a mining camp: it never had a first-class or even a second-class city; but the State of Nevada was admitted into the Union at the suggestion of Mr. Abraham Lincoln, with the advice, of course, of those who were with him, for the express purpose of carrying the adoption of the Thirteenth Amendment. He clearly recognized that he was living in times of revolution, and that he was the trustee of power constitutionally given, and the trustee of power which the people were willing to make constitutional when the occasion required.

Mr. Woods, of South Carolina.—I have been shocked very much this morning at the statement made by the chair and echoed from the floor once or twice that the Constitution of the United States was a paper of convenience. It seems to me, with great respect, that that is an indorsement of lawlessness, —to say that the people may set aside the Constitution whenever in their opinion, at that particular time, the exigency exists. That is lawlessness in its last, I was about to say, in its anarchistic form. As I apprehend the Constitution, it was enacted to make untrue that statement of Lord Macaulay's that some of us have feared might come true, that the "great danger of this government was that we had too much sail and too little ballast." If we cast that Constitution overboard, the ballast will certainly all be gone. Lawlessness in any form is not only a violation of the Constitution, but a waste and destruction of the resources and powers of the people and of the government itself.

4. THE RIGHT TO COMBINE.

BY FRANCIS B. THURBER, ESQ., OF THE NEW YORK BAR.

[Read Thursday evening, September 7.]

The right to combine has been recognized from time immemorial, subject to a due regard to the rights of others. The progress of the world has for centuries been largely promoted by combinations of labor, skill, and capital; but it remained for the nineteenth century, under the influence of steam, electricity, and machinery, to become, *par excellence*, the era of combinations. These forces could only be utilized to their fullest extent through combining the capital of individuals; and the advantages of such combinations are so numerous that they have revolutionized the industrial, commercial, and political worlds. Bovée said, "In former times war was a business, but in modern times business is war." It is certain that these forces enormously enhanced the force or war of competition; and this in turn has led to attempts through further combinations to regulate and control competition. The editor of the United States Consular Reports for August, 1897, in discussing industrial centralization in Europe, said:—

Our period is distinguished by its tendency to centralization, not only in the State, but likewise in industry and commerce. Large firms are competing with small shops to such an extent that the latter are disappearing one after another. The factory has displaced the workshops. Everything is being done on a large scale, everything is becoming colossal.

That is not all. We see now even the great factories, not finding themselves sufficiently strong alone, and fearing their reciprocal competition, renouncing their own autonomy and combining among themselves; and this tendency is everywhere manifest. The French *chargé d'affaires* at Berlin calls attention to this centralization in Germany. The French consul at Glasgow mentions the same phenomenon at Glasgow.

These facts are significant. They certainly indicate one of the tendencies — perhaps, it might be said, one of the necessities — of our epoch. It is certain that production is passing through a seri-

ous crisis. Competition has occasioned a considerable decline in prices; and, in order to retain markets, certain industries have been obliged to work under unprofitable conditions. To avoid final ruin, they have agreed either to limit the production to maintain prices or to conclude complete consolidation. Hence the cartels, the syndicates for production, the associations.

We neither approve nor blame this new procedure: we simply record it, remarking that sometimes certain laws are developed, whatever may be their consequences.

The economic results have been so sudden and startling that it has occasioned alarm in the public mind; and this has been seized upon by sensational journals and political parties competing for public favor, to unduly exaggerate the evils attending the evolution, while the good has been overlooked. The best horse will shy at an umbrella if it is opened in his face too suddenly, but, if allowed to smell of it, and see that it is not dangerous, his alarm subsides; and I prophesy that, when all sides of this question have been carefully studied, popular alarm at the organization of industry, commonly known under the misnomer of "trusts," will subside. But in a country with universal suffrage the only way to put down error is to argue it down. Sensational misrepresentations must be met with facts, or grave injuries to our industries and institutions will result.

The state of alarm in the public mind is indicated by the following resolutions recently adopted by the Wholesale Grocers' Association of New Orleans regarding "trusts":—

Whereas it is the sense of this Association that trusts and combinations of capital controlling the output and prices on commodities are a menace to our national safety and existence, we assert as a fact that it is the intention and purpose of such combinations and aggregations of capital, under the name of trusts, by capital and concentration to control and manipulate alike the values of raw material and manufactured products, thereby enabling themselves to dictate to the producer, the wholesale and retail dealers, as well as the consumer, the prices they shall pay for all manufactured commodities. We further assert that the unopposed continuance and enlargement of trusts in our midst means, as certainly as any mathematical fact, the absolute destruction of our commercial existence. Be it therefore

Resolved, by the Wholesale Grocers' Association of New Orleans, That, viewed from a political standpoint, we believe it is to the best interests of all true American citizens to use every endeavor to cause the most extreme legislation against the operation of trusts that can be had, consistent with our State and national constitutions.

And further illustrations are found in the action of our national and State legislatures in enacting special statutes to limit this supposed evil. Congress prohibited pooling agreements between railroads, and passed the Sherman anti-trust law, which declares every contract in restraint of trade illegal; and under this act the Supreme Court of the United States in the Trans-Missouri Freight Association case took the extreme view (by the narrow majority of five to four judges, however) that even a necessary agreement between carriers for establishing and maintaining reasonable and uniform rates of freight was a contract in restraint of trade. The legislature of the great commercial State of New York in 1896 enacted a law which provides:—

No stock corporation shall combine with any other corporation or person for the creation of a monopoly or the unlawful restraint of trade or the prevention of competition in any necessary of life. No foreign stock corporation formed by the consolidation of two or more corporations or by the combination of the business of two or more persons, firms, or corporations, for the purpose of restricting or preventing competition in the supply or price of any article or commodity of common use, or for the purpose of establishing, regulating, or controlling the supply or price thereof, shall be authorized to do business in this State.

This law was the outcome of an investigation by the Judiciary Committee of the New York Senate, which was remarkable for the bias shown against incorporated capital and the disregard of economic facts developed by the evidence. The report, among other things, denied the right of a manufacturing corporation to choose agents for the sale of its goods and fix the prices and terms upon which they should be sold.

From time immemorial it has been a common custom in trade for manufacturers to select agents to sell their goods and to fix the price and terms on which they shall be sold; also, for agents to agree that in consideration of these and a certain commission or rebate they will only sell the goods of one manufacturer.

The legislature of the State of Texas at its last session enacted an anti-trust law which prohibits any person, partnership, firm, or incorporated body from entering into any agreement to regulate or fix the price of any article or thing whatsoever, or the premium to be paid for insuring property, or to fix or limit the amount or quality of any commodity. The act pronounces the refusal or

failure to put on the market for sale by any corporation, firm, or individual the product of any party a conspiracy to defraud, so as the refusal of any corporation, copartnership, firm, individual, or association which may gather items of news or press despatches for sale to newspapers to sell the same to more than one newspaper within a certain radius of territory. This act prohibits any person from selling at less than the cost of manufacture or giving away manufactured products for the purpose of driving out competition. The act provides that, if two or more persons or corporations who are engaged in buying or selling any article of commerce, manufacture, merchandise, mechanism, commodity, or any article or thing whatever, shall enter into any pool, trust, agreement, combination, confederation, association, or understanding to control or limit trade in any such article or thing or to limit competition in such trade by refusing to buy from or sell to any other person or corporation any such article or thing for the reason that such other person or corporation is not a member of or a party to such pool, trust, agreement, combination, confederation, association, or understanding, or shall boycott or threaten any person or corporation for buying from or selling to any other person or corporation who is not a member of or party to such agreement, shall be deemed guilty of committing a violation of the act and of a conspiracy to defraud, the penalty for which is a forfeiture by the offender of not less than \$200 or more than \$5,000 for every offence; and each day of such violation is made a separate offence.

The Governor of Texas, Hon. Joseph D. Sayers, in commenting upon this law, recently said : —

It has been asserted by some, who claim themselves qualified to speak upon the subject, that trusts, as operated in the United States, are not harmful, and that they are but the outgrowth of an evolution in industrial life that is natural, healthful, and necessary. On the other hand, it is insisted — and I think rightfully — that they are, in a great measure, if not entirely, due to vicious legislation,— to the policy of the federal government in the matter of currency and taxation, and to that of the States in the creation of corporations. A high protective tariff, which excludes foreign competition, and a single gold standard, which increases the volume of currency and enhances the value of the dollar, are well-illustrated by the easy formation of corporations. These are the potent instrumentalities upon its existence. If, under the trust

country be passing into the hands of the few; if the products of other lands be so heavily taxed as to be, in a great measure, denied entrance into our ports, and our people be thereby compelled to buy and use only those manufactured at home; if the cost of production and distribution is being reduced to the minimum; if the output is being so regulated as not to exceed a given quantity, and its selling price determined by the trust exclusively; if the small dealers are being put under duress as to those from whom and as to what they may buy, and as to how they may sell; if individual effort be no longer able to compete successfully with corporate power and corporate advantage; if young and weak industries are being strangled to death and the establishment of new and independent enterprises prevented,—it cannot be doubted that for this untoward and unhealthy condition of industrial and commercial life legislation is, in a large degree, responsible. If the trusts shall be permitted to organize and to operate as for the last several years, the result is certain that a more disastrous panic than has ever been known will sooner or later occur. Much of the stock issued by these organizations is entirely fictitious, and does not represent real capital. Money-lenders will some day refuse to recognize it as safe security, and then the storm will burst forth in all its fury. Under such circumstances, what is the duty of the government? To it do trusts and corporations, either directly or indirectly, owe their being; and upon it therefore rests the obligation to see to it that they, its creatures, shall not harm the people.

It is reported that the Attorney-General of the United States has said that the federal government is helpless to wage a successful warfare against the gigantic evils which proceed from the trust power, and that relief can only be had through the State governments. Congress can, if it but will, render the most effective and substantial assistance. Let it reverse the present policy as to the currency and the tariff, putting the two metals upon the entire equality, and providing for a fairer and more general distribution of the currency, and lowering the duties on imports, so that the productions of other countries may compete with those controlled by the trusts. This much Congress can and should do. In the mean time let the States perform their duty.

I have lately assumed to suggest a conference of the governors and attorneys-general of all the States and Territories, without exception, to consider the subject, and, if possible, to devise and unite upon such legislation as would overthrow the trust power and prevent its revival. In this matter I have acted upon my own responsibility, and with the sole view to correct, if possible, a great and growing evil,—one that threatens much harm to the country. ~~I have had, and I will have, no purpose in view other than that~~ ~~fied;~~ and I trust that, should the conference be held, will be considered except that of trusts, and the adopted by the States to insure their complete shortest period possible.

The trust should be regarded as a public enemy, and should be treated as such. Arrogant, unscrupulous, and merciless in the exercise of its power, it should be fought unto the very death.

These quotations illustrate the state of mind that a considerable body of well-meaning citizens is in at the present time; and, although such utterances appear somewhat hysterical to the student of this question and opposed to the facts, it is both a condition and a theory which should meet careful consideration by thoughtful men. The "ifs" mentioned by the Governor of Texas are assumed to be facts, but they do not exist.

I have been a careful student of these organizations of industry from the beginning. I may say that, when I began, it was with a strong prejudice against them. I believed that they would tend to oppress the public with high prices, and also that their political influence was to be feared; but a careful study of their effect, ranging over a period of years, has materially modified my opinion. The first prominent illustration of the so-called "trust" principle was the consolidation of lines of railroad into vast systems, with the result of better service, and, as a whole, lower rates. The people of the United States now get their transportation at about one-half those of other principal countries. The next was the Standard Oil Company, under whose operations the price of oil has declined more than other commodities not under trust control. Another is the American Sugar Refining Company, under whose operation prices have averaged 50 per cent. lower in ten years succeeding its formation than they did during the preceding ten years. I used to think that combinations of capital would abrogate competition, but experience has shown that instead of abrogating competition it has elevated that force to a higher plane. If a combination of capital in any line temporarily exacts a liberal profit, immediately capital flows into that channel, another combination is formed, and competition ensues on a scale and operates with an intensity far beyond anything that is possible on a smaller scale, resulting in breaking down of the combination and the decline of profits to a minimum. A striking illustration of this is found in the sugar and coffee industries to-day. Arbuckle Brothers had attained a commanding position as roasters and sellers of coffee; and they also sold, but did not refine, sugars. Because the American Sugar Refining Company would not sell them cheaper than other buyers of sugar, they decided to go into the sugar refining business.

Whereupon leading spirits in the American Sugar Refining Company, seeing that the margin in the coffee business was good, decided to go into the roasting and selling of coffee. The result has been that this contest of giants has reduced the profits in both industries to a minimum, if not to a positive loss, making it hard for smaller manufacturers and dealers to live, but saving millions of dollars for consumers that would have otherwise inured to manufacturers and dealers.

The only trusts which have succeeded for any length of time have been those which have been conducted on a far-sighted basis of moderate margins of profit, relying upon a large turn-over and the economies resulting from the command of large capital intelligently administered. The truth of this is illustrated by innumerable failures in trust organizations to control prices, recent illustrations of which are the straw-board trust, the starch trust, the first wire nail trust, and the old steel trust. There are trusts, so called, in nearly every branch of business, and there is good and bad in all; but the good so far predominates that such aggregations of capital should be encouraged, accompanied by safeguards against abuses. The only additional safeguards needed are for stockholders and investors, whose interests are often sacrificed through lack of publicity. The average investor is the chief sufferer. So far as the interest of consumers is concerned, it is amply protected now: first, by competition, as I have shown; and, second, by the common law, which, if invoked, will nullify any contract in unreasonable restraint of trade, and any unreasonable combination is subject to indictment for conspiracy. Special "trust" statutes are not necessary, although many have been enacted.

As to the right to combine, it is so closely related to the right to contract that it affords a most interesting question. Commerce is nothing but a body of contracts. Every purchase and sale, from a peanut to a gold mine, and every transaction in the movement of merchandise, every agreement between employer and employee, involves a contract, either verbal, written, or implied. No right is more sacred, and none has been more carefully guarded in our fundamental law. The Constitution of the United States, Article I., Section 10, says, "No State shall pass any law impairing the obligation of contracts." Article XIV., Section 1, says, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State

deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the law."

It seems to me that the tendency of legislative and judicial bodies in this country just now to sweepingly condemn contracts which in any manner restrict or regulate trade is unwise and against public policy. If capital is denied the right to combine, labor must be put under the same disability. *Such statutes as those I have quoted are really statutes in restraint of trade rather than in the interest of the freedom of trade, and are opposed to the greatest good for the greatest number.*

The opinion of the minority (four against five) of the Supreme Court of the United States in the Trans-Missouri Traffic Agreement case, as expressed by Judge Brewer, says:—

If there is one thing which more than another public policy requires, it is that men of full age and competent understanding shall have the utmost liberty of contracting; and their contracts, when entered into freely and voluntarily, shall be held sacred and shall be enforced by courts of justice.

The remedy intended to be accomplished by the act of Congress was to shield against the danger of contract or combination by the few against the interest of the many and to the detriment of freedom. The construction now given, I think, strikes down the interest of the many to the advantage and benefit of the few. It has been held in a case involving a combination among workmen that such combinations are embraced in the act of Congress in question, and this view was not doubted by this court. (*In re Debs*, 64 Fed. Rep. 724, 745-755; 158 U. S. 564.) The interpretation of the statute, therefore, which holds that reasonable agreements are within its purview, makes it embrace every peaceable organization or combination of the laborer to benefit his condition, either by obtaining an increase of wages or diminution of the hours of labor. Combinations among labor for this purpose were treated as illegal under the construction of the law which included reasonable contracts within the doctrine of the invalidity of contracts or combinations in restraint of trade; and they were only held not to be embraced within that doctrine, either by statutory exemption therefrom or by the progress which made reason the controlling factor on the subject. It follows that the construction which reads the rule of reason out of the statute embraces within its inhibition every contract or combination by which workingmen seek to peaceably better their condition. It is, therefore, as I see it, absolutely true to say that the construction now adopted, which works out such results, not only frus-

trates the plain purpose intended to be accomplished by Congress, but also makes the statute tend to an end never contemplated, and against the accomplishment of which its provisions were enacted.

To the average mind it looks as if the opinion of the minority was right, and that our American courts and legislatures have been "leaning over backward in their efforts to walk straight." In Europe the rule seems to be different, as is evidenced by the celebrated Mogul Steamship case decided by the highest court in England, a clear statement of which is given in a recent pamphlet by William L. Royal, Esq., of the Virginia bar.

Several lines of steamships traded to China all the year. The trade was unprofitable except in what is called "tea season," when it was very profitable. The losses of the year were made up and a profit gained by the freights on tea in "tea season." Another line of steamers traded to Australia all the year until "tea season" came on, when its steamers were diverted to Hankow to get a part of the profitable tea trade. The lines which traded to China all the year entered thereupon into an agreement, called here "trusts" or "pools" or "monopolies" or boycotts" or "contracts in restraints of trade," or whatever else of the same sort can be suggested. They agreed together to divide out freights amongst themselves; and they published a notice to all merchants in China that, if they would ship everything all the year by one of the conference lines, they would be allowed a rebate upon all freights at the end of the year of 5 per cent. And, whenever one of the steamers of the Australian line came to Hankow, the conference had a steamer there to underbid it on freights, so that whatever the Australian got caused it a loss. Thereupon the Australian line applied to the English courts for protection upon the ground that this combination of many against one was contrary to the principles of our law. It is plain that the case brought up for discussion all the questions relating to pools and trusts now agitating the American mind, and these questions received a treatment in England worthy of their magnitude and scope.

The case was tried first by Lord Chief Justice Coleridge and Lord Justice Fry. It was then tried by Lord Coleridge alone, and upon appeal from his decision by Lord Justices Bowen and Fry, and Esher, Master of the Rolls; and, upon appeal from them to the House of Lords, it was heard before the Lord Chancellor, Halsbury, Lord Watson, Lord Macnaughten, Lord Bramwell, Lord Morris, Lord Field, and Lord Hannen. Each decision was in favor of the conference; and every one of these twelve eminent judges except Esher, M.R., held that the agreement was a per-

fectedly good and valid one, according to the principles of our common law.

The guiding principle in the case was held to be the one stated. If the parties contemplated their own improvement only, it was immaterial that they contemplated injury to the Australian or that injury to him would be the result of their acts; but, if they were actuated by malice toward the Australian, then the agreement would have been a vicious one, condemned by the principles of our law. This was held to be the test in all such cases.

The idea is very admirably brought out in the opinion that was delivered in the House of Lords by Lord Field, who said:—

It follows, therefore, from this authority, and is undoubted law, not only that it is not every act causing damage to another in his trade, nor even every intentional act of such damage, which is actionable, but also that acts done by a trader, in the lawful way of his business, although by the necessary results of effective competition interfering injuriously with the trade of another, are not the subject of any action.

Of course, it is otherwise, as pointed out by Lord Holt, if the acts complained of, although done in the way and under the guise of competition or other lawful right, are in themselves violent or purely malicious or have for their ultimate object injury to another from ill-will to him, and not the pursuit of lawful rights.

Lord Hannen said, in delivering his opinion in the same case:

I arrive at the conclusion, therefore, that the objects sought and the means used by the defendants did not exceed the limits of allowable trade competition; and I know of no restrictions imposed by law on competition by one trader with another with the sole object of benefiting himself.

I consider that a different case would have arisen if the evidence had shown that the object of the defendants was a malicious one; namely, to injure the plaintiffs, whether they, the defendants, should be benefited or not.

Lord Watson said, in delivering his opinion in the case:—

If the respondents' combination had been formed not with a single view to the extension of their business and the increase of its profits, but with the main or ulterior design of effecting an unlawful object, a very different question would have arisen for the consideration of your Lordships.

Lord Justice Fry said, in delivering his opinion in the same case:—

These are, so far as I am aware, all the relevant authorities; and none of them appears to me to support the proposition that mere competition of one set of men against another man, carried on for the purpose of gain, and not of actual malice, is actionable, even though intended to drive the rival in trade away from his place of business, and though that intention be carried into effect.

The Mogul Steamship case finds a parallel in a recent case described in the Berlin *Tageblatt*, as follows:—

The highest court of the German Empire sitting at Leipzig has rendered an important decision, which we summarize below, concerning combines, or trusts. The decision will be of great interest to the other nations, and particularly to the United States, where trusts have come to exercise such a prominent part in commercial and industrial affairs. The court mentioned has declared emphatically that trusts and similar combines are entirely legal. The grounds upon which this decision was based were as follows: When in certain industrial pursuits the prices of products are sinking so low as to make business impossible or as to endanger the successful carrying on thereof, the crisis which necessarily follows is not only disastrous to the individual concern, but also to internal affairs generally. For this reason it is for the interest of the entire State that inadequate low prices shall not prevail too long in any industrial branch. Realizing this principle, the legislative bodies have repeatedly, and only recently, undertaken to bring about an increase in the prices of certain products by the establishment of protective duties. For this reason it cannot be deemed certainly, or generally speaking, obnoxious to the interests of the community when the manufacturers of certain articles form what is called a "trust," with the object in view of preventing ruinous competition and for the purpose of mitigating the downward tendency in the prices of their particular manufactures. On the contrary, such combinations can be looked upon, not only as warranted by the instinct of self-preservation, but as a measure for the interest of the whole community as well. Especially is this true in cases where prices are so low that the manufacturers of the articles are on the verge of financial disaster. For this reason the building of syndicates, or trusts, has been designated by a number of authorities as a means which, when properly managed, would prove extremely expedient to prevent detrimental and unwarranted overproduction.

Many good people have imagined a bogey monster that doesn't exist. They have accepted as facts the fancies of sensational

journalism. The natural advances in price when demand exceeds supply have been debited, and the declines when supply exceeds demand have not been credited, *to say nothing of economies in production and distribution which have made the present age the consumers' millennium.*

Never before would a day's labor buy so much of the comforts and luxuries of life; but education of the masses to the wants of intelligence has progressed even faster, and the rewards to the inventors and the captains of industry and finance, who have made this evolution possible, are envied. It is overlooked that corporations are really co-operations, that the number of partners as stockholders in any industry is increased, that any one can become a partner, and that instead of being concentrators of wealth they are distributors of wealth. It has been assumed that labor would be oppressed by the organization of capital; but experience has shown that organized labor has met organized capital, and that the largest organizations of capital have furnished the steadiest employment and have paid larger wages than individual employers. The grievances of individuals injured in this evolution of industries have been magnified and the general good minimized. The lesson of the stage-driver thrown out of work by the locomotive, or the workman by the machine, is forgotten when the travelling salesman, who loses his job through the economies of industrial organization, appeals to public sympathy. That wider markets are necessary, and that large capital intelligently administered is necessary to find them, is not appreciated. That "rule of reason," as expressed by the minority of the Supreme Court of the United States in the Trans-Missouri case, is in danger of being expunged from our Statutes.

Within the limits of a paper like this it is of course impossible to do more than speak suggestively, and touch upon but few of the many points involved; but I have faith that, with further study of this subject by the American people, the facts will become plainer, and that they will appreciate that

"Through the ages one increasing purpose runs,
And the thoughts of men are widened with the process of the suns."

Upon the conclusion of Mr. F. B. Thurber's paper the topic was thrown open for debate, a brief report of which is subjoined:—

Mr. Root.— In reference to the proposition that one trust will neutralize the baneful influence of another trust, I would like to know whether in the nature of things it is possible, in Mr. Thurber's judgment, for any successful competition to arise against such a concern as the Standard Oil Company, and whether the alleged transactions of that company, as brought out in Henry D. Lloyd's notable book, entitled "Wealth against Commonwealth," attacking Standard Oil, are worthy of evidence.

Mr. THURBER.— Yesterday at Washington, before the Industrial Committee, a witness detailed a new combination of the oil business which has come up against the Standard. There you have the fact that a very material combination which had sufficient capital and influence to establish its own reservoirs, its own pipe lines, and its own tank steamers for the distribution of oil, and its own tanks and distributing facilities in Europe, is making a substantial opposition to the Standard Oil Company. My own observation, in lines of business with which I have been entirely familiar, has shown me that every small competitor has an immense influence upon a large one. The small man has an immense influence in setting the price. And, while I used to think that it would be possible so to combine industries that competition would not be possible, further study on that subject has convinced me that it is not true. Capital is constantly increasing. All the resources of nature are being developed. Wealth is increasing at a rate which has made capital plentiful, as evidenced by the gradual decreased rates of interest; and the moment any industry is monopolized entirely, and it has the effect to advance the price so that it is making a great deal of money, a new competition is established. We may say, perhaps, there are some exceptions to the rule; but they go to prove the rule. Occasionally, a patent will for a time give a monopoly, until the patent expires, a very large return to the company controlling that patent, but this is the exception to the rule. The Wire Nail Trust advanced the price twelve cents, and within twelve months another trust was established that knocked the price down to what it was; and it has never been able to get up again until this recent rise in iron and steel. They have learned a lesson in that way, that they could not advance prices to a greater extent than the raw material is advanced.

I have not read the later editions of Mr. Lloyd's book. I was very familiar with the early edition of it. I think he is a very sincere man, but he is something like myself. In the beginning he took certain isolated facts, and assumed that they were general. There is no doubt in my mind, from what I have read, that some of the individuals who are consolidated in the Standard Oil Company did things which were not what they should be, perhaps; but I do think for the last ten or fifteen years there has been nothing in the management of the Standard Oil Company that could be greatly complained of.

Mr. Root.— Not the burning of its books?

Mr. THURBER.— It has been alleged and testified that those books were

burned to get them out of the way because they were no longer needed. At the same time I am not prepared to say, if you and I had been in business and had our trade methods and secrets, which might be entirely justifiable, we should also object to show them up to our competitors and creditors, and might have burned them to get them out of the way. I know nothing about that.

Mr. Root.—When experts differ, who shall decide? I remember talking with an expert, whose business it is to investigate such questions; and he told me that, in his judgment, the case against the Standard Oil Company was unusually complete, and against one or two other trusts which he mentioned.

Mr. SANBORN.—What about the alleged combination or competition between our Standard Oil Company and the Russian producer? When I was in Europe in 1893, our consul, in answer to my inquiry whether the competition of Russia was not to be feared in the Mediterranean towns, said that, as soon as the contracts which now exist between the purchasers in this part of the world and the Standard Oil Company expired, the Russian producer will control this market. I have read that there were efforts to combine these two great industries; and within a week I have seen that the Russian producers were willing, but the Russian government unwilling.

Mr. THURBER.—I am not very familiar with the business of the Standard Oil Company; but, when I have been abroad, I have seen, as you have, these reports of competition between the Russian oil field and our own. And later on, since the discovery of oil in Sumatra, there has been a strong competition there in the East for the control of certain of the Eastern markets; and I have also seen that there was some understanding or agreement about division of territory. I have no doubt that all those things are possible and practicable; but we have to look at the thing as to results, not the result of a day, but the result after sufficient time would have elapsed to establish what were the general results.

5. THE TRAINING OF THE LAWYER AND ITS RELATION TO GENERAL EDUCATION.

BY CLARENCE D. ASHLEY, LL.D., DEAN OF THE SCHOOL OF LAW,
NEW YORK UNIVERSITY.

[Read Thursday evening, September 7.]

The chief aim of education is, of course, mental training; and, while acquisition of facts is of great importance, it is subsidiary to mind drill and discipline. In so far therefore as any course of study trains the mind, and at the same time imparts valuable information, such course must be of advantage to general education. This advantage will be found in the study of law, which, when properly conducted, supplies broad, efficient training, combined with valuable knowledge. European educators clearly recognize this, but heretofore the law has been pursued in our universities from a purely professional standpoint. Thus, to a great extent, the general curriculum has been deprived of this invaluable topic; while confining its study to the law school has necessarily produced a narrowing tendency in professional work, and has led to a demand for such courses as seem practical and most likely to lead the student to immediate, even though temporary, results. Although some legal educators have shown great wisdom in combating this tendency, and have worked for broader and deeper results, yet the demand for superficiality in legal education remains appallingly great; and the fight for better things must still be stern and fierce.

One problem which confronts the law schools is how to keep within reasonable limits the period which the student shall be required to devote to study before beginning active life and at the same time insist upon the proper amount of education, both general and technical. The demand for the solution of this question arises from the actual necessity of the case, and will continue so long as our professional students come not from a wealthy, leisurely class, but from the people at large, who must consider time and expense. Think of it as we may, the truth is there, and cannot be ignored. It may be that one or two institutions can successfully

maintain the highest standards in every particular, without regard to this legitimate demand; but, in the end, the universities must consider the necessities of the great mass of American students, and it is their duty to do so.

Under such circumstances it has seemed to me that these problems may be so worked out as to leave unimpaired the highest standards of the law department, and at the same time increase the efficacy of the college course and broaden the general education of the country. The following pages are written with this thought in mind.

The term lawyer may refer to one who has been admitted to the bar of some State without regard to the education, professional or otherwise, which he may have acquired, or it may refer to an educated man, who has been carefully trained for his profession. The latter is the sense in which it should be used, and reference is here made to the training of such men. But, bearing in mind the necessity for placing reasonable limits upon the total amount of time to be demanded for education preliminary to life's work, just how shall the requisite professional training be demanded without infringing upon the time which should be devoted to general education? The average student will not graduate from college before he is twenty-two. His three years' law school course will bring his age to twenty-five; and then, to be conservative, at least one year in a law office is necessary before the young lawyer is worth very much. At twenty-six, then, he begins to earn a small salary, as a clerk, or, if he starts for himself, to make by hard work enough to pay his modest office expenses. With good fortune, he may do sufficiently well to marry at thirty. Clearly, this is wrong. The inevitable result is a strong tendency toward short and inadequate professional training, or, if the professional standard is maintained, toward a lower grade of general education. It may be taken as established that the strictly professional education should not be curtailed.

The law school which truly performs its functions must insist upon sharp and severe mental training before its degree is conferred, and this must be preceded by the requisite preparation. And here it is conceded that many men with good intellects, but education much below that of the high-school grade, have been so sharply trained by the experiences of real life that they successfully compete in the law school with first-class men from

the best colleges. This has been too often demonstrated to admit of doubt, yet it by no means establishes the fact that their preliminary education has been sufficient. These very men would be broader, better lawyers if they had been compelled to increase their general education; and, no matter how poor such men may be, what the privations to be endured, they will carry their point, and higher requisites will not shut them out from the profession, but lead them to meet the higher demands. The boy who sells newspapers around City Hall Park, and within twelve years leads his law school class in competition with graduates from the best colleges, will not be crowded out of the profession because a higher general education is required. He will simply meet the further requirements, and thank you for it afterward. Examining the question, then, from the standpoint of preliminary education, we must consider what training the coming law student should have to fit him properly for entrance upon his professional studies and for his professional life thereafter.

A broad general education should be demanded to train the mind and prepare the faculties for the professional studies and development; and, further, because the trained lawyer ought to be a well-educated man, and not only ought, but must be, if he is to take high rank in his chosen calling. But of what and how much shall this general education consist? Two universities, Harvard and Columbia, have said that a college degree is the minimum, albeit no discrimination is made as to the character of the subjects to be pursued to obtain the degree; and bachelor of arts, science, philosophy, engineering, and the like, will be equally received, provided only the degree has been conferred by a university of standing.

It may well be doubted whether this requirement was made by these two universities because of a conviction that legal education as such demanded it or whether questions of convenience and general policy did not play a controlling part. Are we prepared to say that a mathematical education such as generally leads to the science degree is advisable for one proposing to study law, or is it not true that two years of history and literature without a degree would be worth far more to him than four years of mathematics and kindred subjects?

In Germany each student pursues the same preliminary school preparation, which takes him about as far as our Sophomore year. Successfully completing this, his certificate admits him to the

university; and he there begins his professional studies, without any further intermediate work. His university course is his professional course, and his first degree is the professional degree.

But it is objected that such a course is narrowing, that the student loses that broad, liberalizing influence which is obtained by taking our full college course. This, in reality, has in view the old college, the academic department; and the objectors seem to forget that in many lines our universities are pursuing a directly contrary plan. Thus Yale, Harvard, and Columbia all have professional departments directly fitting men for the calling of their lives, and yet admit to such departments with preliminary examinations equivalent to that for entrance to most Freshman classes. Take, for example, the School of Applied Science at Columbia. This is purely a professional training school, severely so; and we have here an undergraduate course leading to the first degree. Thus Columbia offers to such men as propose to become engineers a college course which is strictly professional. It will hardly be claimed that these courses are less narrowing or professionally technical than those of the law department. The various scientific schools in our universities are in reality doing just what Germany does, and making the college undergraduate course nothing more than a professional course. If this is wise for civil or electrical engineers, it would seem to be so for other professions.

But why cannot all views be met by a change whereby the lawyer may receive a liberal education without too much sacrifice, and at the same time general education be benefited greatly, by taking advantage of much which jurisprudence, or even which the less pretentious common law, has to offer?

There seems to be no well-founded objection to introducing many legal subjects into the undergraduate college course. I firmly believe that development in legal education must lie at least to some extent along these lines. In this way the time problem may be met without infringing upon the demands of professional work and without doing injury to the college course or limiting the broad, liberal education which leaders in educational thought rightly regard as of first importance. It is true that this suggestion is made from the professional standpoint, and by one who is convinced that the demand for time-saving in legal training must somehow be met, while the limit of law study must be increased rather than diminished.

President Dwight of Yale, in his last annual report, says: "There can be no doubt that the tendency to specializing in our educational system, even from the beginning of the studies of youth contrasted with childhood, has become excessive, and that, if the best education is to continue, this tendency must be counteracted. Otherwise we may have educated lawyers or physicians or specialists of one sort or another, but not educated men." At first sight the suggestion here made may seem to be contrary to the views thus expressed by President Dwight; but, in my opinion, the universities would broaden, and not narrow, the field of general education by thus enlarging their curriculum. The general student would find increased opportunities for culture; while the law student would be less likely to over-specialize, because he could better afford to continue his general education into the college than he can now do. Universities could offer courses on contract, property, real and personal, torts, pleading, criminal law, and perhaps other branches as elective to be counted toward the degree of A.B. Thus opportunity to take these topics would be given to many not proposing to become practising lawyers, and the educated man which President Dwight has in mind would be encouraged to add genuine legal training to his general education. This result would be most advantageous. It would be a great gain if sharp legal training were obtained by a large number of our generally educated men. Certainly, historians should have this knowledge and their judgments trained and modified by the development which legal studies give. Clergymen and business men would alike profit immensely by such courses, and to all intending teachers they would be of incalculable benefit. That this is already recognized by some is proved by the fact that it is not at all unusual for young business men, clergymen, and teachers to take the regular law school course purely for the mental development which it gives; and I have frequently been told by such men that the results surpassed their highest expectations. It surely is singular to see in our highest universities those who have had no legal training teaching constitutional and even Roman law. It does not follow that these advantages can only be obtained by taking the entire law curriculum. This peculiar mental training, which is of immense advantage to the worker in almost any intellectual field, can be acquired by closely pursuing two or three properly selected courses.

Let us take such a conservative institution as Yale University, and see how this theory could be carried out. An examination of the last Yale catalogue shows that after Sophomore year the course is almost entirely elective. Suppose now several of the subjects given in her law department should be opened to undergraduates, and count toward the degree of A.B. This would not increase the expense, because such instruction is already provided in the law school. Proper rules should be instituted regulating the number of law electives which could be taken in each year, and thus any danger of over-specializing avoided. Many colleges already offer brief courses upon elementary jurisprudence, Roman law, and even common law topics; but this does not go very far or take a serious hold on the student body.

It is submitted that the same correct theory which introduces "Railroad Transportation" and kindred subjects justifies the claim here made for legal topics in the regular undergraduate curriculum; and, surely, any university that permits its A.B. degree to be taken after a specialized course of higher mathematics would not narrow general education by following the plan I contend for here. I believe such a step is one which would add greatly to the breadth and strength of the curriculum of the college adopting it, and that the future will show marked development in this direction. The sharp intellectual drill furnished by properly conducted law courses is too valuable to be much longer overlooked in the field of general education, and the gain to the country from the knowledge and discipline thus to be acquired will surely be recognized. Many would thus attain this advantage who have neither time, money, nor inclination to take a full law course. In colleges which have no law department, courses on such a topic as "Contract" could be given, with perhaps some slight modifications, to great advantage. Of course, all this presupposes that the teaching on such subjects will be of that thorough, searching character which makes the student do his own thinking, and considers the intellectual drill as more important than the knowledge obtained.

While law instruction could thus be made to administer to general liberal education, the question of time in the law schools would be simplified and a greatly desired end achieved.

These suggestions have in view law courses conducted on modern theories of education; that is to say, true law study, thorough and severe, with the mental discipline necessarily involved, such

a course, for instance, as Ames gives on Contract: This must be the care of the law departments ; and upon these departments, co-operating with the entire university, must rest the development of such a plan and its utilization to the best ends. Unless they are willing to recognize this, to make radical changes in the systems heretofore existing, and to meet the pressing demands of the times, they must be prepared to see superficiality prevailing over thoroughness and the learning of our bar and courts steadily diminishing. They owe it to themselves, and the universities owe it to the country, to meet the question and solve it.

Great as has been the development in the direction of university legal instruction, much remains to be accomplished, even in the most progressive legal departments ; while many law schools seem to have made little advance on the ideas and theories of forty years ago.

It is only gradually being recognized that the law instructor must be a man with a true talent for teaching, and that it is by no means enough that one is a successful or learned lawyer or that he has written a book upon the subject he desires to teach. In most cases it is probably better that he should have had experience in actual practice ; but, be that as it may, it is becoming more clear every day that the law school should demand his entire time, and the few schools insisting upon this have struck the right note. It is no easy task for universities to find real teachers in any branch, and in the case of law instruction the difficulty is even greater.

The time has passed for selecting eminent men as figure-heads, and to-day the office of dean of a modern law school demands a man of executive ability having intimate acquaintances with modern legal education in all its aspects and possessed of enthusiasm for his work. Such a man should have the strength of character to formulate and carry through needed reforms, and gather about him a strong teaching force of able men who will be in sympathy with his aims. A working faculty of this character can accomplish much. The last thirty years have shown great results brought about by the right men placed at the heads of departments and universities. Harvard selected a comparatively young man as president ; and Eliot has not only shown himself the great educator of his time, but has brought his university forward with steady strides and made its influence felt all over the country. Then followed Columbia with Low, and the gratifying results are known

to all. Gilman of Johns Hopkins and MacCracken of New York University both illustrate what personal force at the head of an institution can do. Yale now takes the same step; and it is confidently believed that, in selecting Hadley, she has recognized and fully met the same demand. One of President Eliot's early acts was the selection of Professor Langdell as dean of their law school, leaving in his hands the duty of making the school what it should be. The consequence is that Harvard's law department has steadily advanced. On the retirement of Langdell, Ames was on the spot ready to make an ideal head of this faculty. President Low, soon after his inauguration, was instrumental in the selection of Professor Keener as dean for the Columbia Law School; and this selection has eminently justified itself. These two prominent illustrations show that the modern law school must have the right man at its head; and his views should have the greatest influence and his judgment be followed in the selection of those who are to work with him in his faculty and in the development of the school. Such a leader and faculty, devoting themselves entirely to the law school work, will have the needed time for extensive and broad study, and by their writings can strike telling blows for the profession and make themselves an added power for good by the force of their thoughts.

It is fully recognized by legal educators that three years of law study should be required; and the law schools of to-day plan out their curriculum by classes, the student taking his examinations at the end of each year, and graduating with his class at the completion of his course. Could not a profitable change be made in this connection, following the example set by Germany and such institutions as Johns Hopkins, Bryn Mawr, and Chicago University? The law school might offer its courses arranged without respect to classes, and allow students to matriculate at any time and enter any course about to begin. No time requirement need be made, but no student should be allowed to graduate until he has successfully completed a prescribed number of subjects. The student could finish his course at any time, and have the degree conferred upon him at the following commencement. It would be wise to require some specific subjects as necessary for a degree, and possibly to demand that certain courses should be taken prior to others; and, at all events, the faculty could advise students: ment of work. It is possible, too, that a redist

time could be arranged so as to offer opportunities to those desiring to accomplish more in a year's period than can be done in the present academic year. If the suggestion made above as to permitting the undergraduate college student to take some of the law courses be adopted, those taking such courses can have them credited by the law school. If, then, the student takes both his college and law school course in the same institution, the undergraduate law examinations will have been conducted by the law school itself; and nothing further would be necessary. If he comes to the law school from another college, then the course can be accepted subject to examination by the law school.

It may be objected in this plan that the same subject can be used toward both the undergraduate and law degree. This is true; but, in the first place, the same thing is already allowed in another form at Harvard, Columbia, New York University, and other institutions by permitting the Senior college year to be taken in the law school. And, if it be urged that one false step does not justify another, the answer is that degrees are valuable as aiding education and true learning, but must not be allowed to stand in the way of their advance.

Heretofore the progress in general legal education has been almost entirely in the line of active, practical law. In spite of the research of scholars the interest in general jurisprudence, Roman law, the historical development of our law, and subjects generally considered as graduate topics have not met with any great interest among our law students. Yale has for many years conducted advanced graduate courses leading to the degrees of LL.M. and D.C.L., but these courses have drawn but a handful of students; while at New York University the graduate courses, although well attended, show a strong preference on the part of the students for the graduate work of a practical rather than of a purely scholarly character. Yet an interest in this broader education could and should be aroused. There should be courses on the development of the jury, going over the field covered by Brunner and Thayer, and general historical study, such as is taken up in the recent work of Pollock and Maitland. Jurisprudence should be more deeply and carefully studied, with an examination of the original sources as far as possible. In short there should be a demand for broad legal scholarship, going beyond the requirements of actual practice; and, to create this

demand, an interest should gradually be awakened among such students as have time and inclination to pursue courses of this character. No attempt is here made to work out any such plan, and the topics mentioned above are thrown in at haphazard to illustrate what is intended. We are all indebted to the *Harvard Law Review*, and its articles have proved an inspiration in the direction I have indicated. These articles have not only thrown light on many obscure topics, but have led lawyers to appreciate the scholarly side of our law, and to gain an interest in it. There are, of course, many learned men engaged in broad and profound legal research in England and America, but in this country at least there is no general taste for legal study apart from its practical side. Should our universities introduce legal subjects into their undergraduate curriculum, it seems fairly certain that this side of the law would be more often pursued, and that the number of jurists as distinguished from practising lawyers would be steadily increased, to the great advantage of our profession.

Growing attention throughout the land is centring upon legal education. When we consider the important part lawyers have always played in this country, when we consult statistics and find what a large proportion of men in public life are lawyers, and remember that this state of things, from the very nature of the lawyer's training and experience, will continue, it certainly concerns the entire nation that the education of this class of men shall be steadily improved; and what higher duty can educators find than this? I believe that the study of law and its proper development must play an ever-increasing part in the functions of our universities during the coming years.

Let them look to it, then, that they do their part toward making legal education not only an aid to general learning, but a means for raising and broadening the men professionally trained and sent out from their portals. No greater good can they do our country than to make the lawyers of our land a highly trained body of men, infused with the high and noble principles which belong to this great profession.

IV. DEPARTMENT OF HEALTH.

[Owing to circumstances entirely beyond the control of the officers of this department, the appointed essayists, with one exception, found it quite impossible to offer papers as designated on the programme. Dr. Rosse, of Washington, D.C., forwarded his paper, which is herewith submitted.]

BRIEF MENTION OF A FEW ETHNIC FEATURES OF NERVOUS DISEASE.

BY IRVING C. ROSSE, M.D., OF WASHINGTON, D.C.

I have elsewhere, in a Paris journal,* touched upon the relative frequency of neural and psychic disturbance among various races; while their interpretation, from a criminological view-point, has been occasionally mentioned by medical writers within the last few years. Yet I feel that there is still room for further remark upon a timely subject of popular interest. The analytical paper of Dr. Mays, of Philadelphia, read before the Section of Neurology and Medical Jurisprudence of the American Medical Association, appears as a late contribution dealing with the question of the increase of insanity and of pulmonary consumption among Southern negroes; and the remarks relative thereto are in line with those of previous observers who have noted the prevalence of nervous disease to be a matter of existing mesological condition rather than of ethnic distribution.

Generalities aside, we find paranoia and paretic conditions more common in the white race under the civilizing influence of town life, the bad effects of which are venereal disease, increased consumption of tea, alcohol, and tobacco, and the struggle for existence caused by unequal distribution of wealth. The same causes seem to have produced an anatomical determinism in the black race, among whom nervous diseases, insanity, suicide, and many

* Les névroses au point de vue démographique. *Archives de l'Anthropologie Criminelle et des Sciences Pénale*, No. 37, janvier, 1892.

penal offences, rare before the Civil War, are since more prevalent; and their increase has become a matter of grave social import. To be more specific, it is a matter of simple arithmetic that demographic phenomena are acted upon by the civil state. Statistics of the police and health departments of most towns are recognized as the best means to determine the sanitary and sociological condition of the people. Take, for instance, the seamy side of Greater New York, where but few know how the other half lives. Among a heterogeneous white population in a typical section of that city, it has been ascertained lately that but few belong to or even attend a church. If they desired to do so, many could not, for the reason that one in five is obliged to work every Sunday in the year; and, while there is one saloon for every four hundred and fifty inhabitants, there is but one church for every four thousand five hundred. Moreover, all the churches and charitable institutions of the neighborhood in question, if placed side by side, would make but 750 feet; while the frontage of all the saloons would be over a mile in length.

But, without discussing the criminal record of reeking cesspools of vice to be found in other cities, the full knowledge of whose immorality and social disorder never reaches the outside world, what may we not say of the criminal record of the negro population in Washington, as revealed by the metropolitan police statistics? Careful study of these facts shows a terrible state of depravity among the negroes, arrests for disorderly conduct alone, in which there was presumably much drunkenness, exceeding the white arrests 200 per cent. Though numbering but 90,000, or one-third of the population, out of a total of 103 charges upon which arrests were made, the negro exceeded the white arrests in 43 charges, equaled them in 6, equaled 50 per cent. or over in 23, and equaled 33½ per cent. or over in 4.

In a population of 68 per cent. white and a fraction over 31 per cent. of black or yellow, euphemistically known as "colored," the total arrests for 1897 were: —

Whites	10,587
Colored	11,975
Total	22,562

or about 46 per cent. white and 53 per cent. colored.

Out of 33 charges upon which arrests were made, the most

heinous criminal offences show the negro largely in excess in each of them, as evidenced in the following list:—

<i>Charge.</i>	<i>Whites.</i>	<i>Colored.</i>
Abortion	0	2
Affray	161	193
Adultery	4	48
Accessory to murder	0	2
Arson	2	5
Assault	378	799
Assault and battery	366	952
Assault with intent to kill	15	39
Assaulting officer	10	11
Attempt to rape	1	5
Concealed weapons	75	164
Disorderly conduct	1,226	2,871
Fornication	14	53
Grand larceny	60	73
Highway robbery	6	10
Housebreaking by day	15	22
Incorrigibility	21	50
Indecent assault	9	10
Keeping disorderly house	11	40
Keeping unlicensed bar	43	56
Larceny from person	34	39
Manslaughter	1	2
Murder	2	7
Petit larceny	302	896
Petit larceny, second offence	3	17
Policy law	5	51
Profanity	381	750
Rape	1	7
Receiving stolen goods	11	12
Suspicion	274	583
Sodomy	1	6
Threats	124	171

Doubtless these unsavory facts may prove offensive to many leaders of a race which, it is only judiciously fair to say, is naturally docile and among whom are found many estimable citizens ; and it may be contended further that the acceptance of the facts on their face value, without inquiring into the contributing influences, may prove misleading. But it is the conduct of the black man that we are considering, not his color. It is a question of condition, not of race ; and in connection therewith it may be conceded that a corresponding class of whites in several of the Northern States will

parallel any class of crime to be found among Southern negroes. Penal records show that Massachusetts, a State having more money per capita than any other in the Union, has 233 prisoners to every 100,000 of the population; while Mississippi, with the least money per capita of any State, has but 91. And it may be shown further that the criminal average of New York, Colorado, or California, exceeds that of many of the Southern States having a large number of negroes.

On the other hand, the negro of the North has a criminal record about three times as great as that of his brother in the South, since out of every 1,000 negro males in the North Atlantic States 9 are constantly in jail. This high criminal rating speaks for itself in the following table from the *Washington Star*: —

NUMBER OF NEGRO PRISONERS TO 100,000 OF THE NEGRO POPULATION.

<i>Northern States.</i>		<i>Southern States.</i>	
Vermont	1,920	Virginia	254
Massachusetts	683	North Carolina	288
New York	1,000	South Carolina	154
Pennsylvania	686	Georgia	302
New Jersey	661	Mississippi	139
Colorado	931	Alabama	309
California	991	Louisiana	189

Speaking of the startling frequency and increase of homicide in our country, Professor Lombroso remarks that, while the colored people are but 12 per cent. of the population, they are responsible for 40 per cent. of the homicides, or, differently put, there are among the whites but 8 homicides to 100,000, while among the blacks there are 45 to every 100,000, from which the professor concludes that, "were it not for the negro population, the crime of homicide would be almost as rare in the United States as it is in the most civilized countries of Europe."

The inmates of the District jail on Sept. 22, 1897, were: white, 65; colored, 335; total, 400; or the colored exceeding the white by nearly 500 per cent. Among these were 3 white and 50 colored females.

With the high percentage of negro depravity, as revealed by the foregoing cold and unprejudiced facts, must be taken into consideration the figures of the Washington Health Office, which go to prove further that degeneracy is not so much a race attribute as a

matter of mesological condition. A cursory glance at these returns shows that among people of color the decedents from nervous disease often exceed that of the white population one-third in the 1,000, while insanity and suicide among people of African blood have increased progressively since 1876. Nor do the statistics appear any more encouraging on comparing birth-rates or taking into account the number of illegitimate births, and the circumstances surrounding the high rate of still-born children and the unknown dead and abandoned infants found in the District. The records for 1896 show the total of 617 illegitimate births, of which 100 are white and 517 colored. The still-born for the same period were 181 white, 339 colored; and of these the illegitimacy among the white was 28, while it was 167 among the colored. These figures are none the less savory for pointing out negro parentage in the majority of cases reported for the same year, as shown in the following table:—

	<i>Abandoned.</i>	<i>Dead.</i>	<i>Total.</i>
White	1	12	13
Colored	16	29	45
Unknown	1	60	61
Total	18	101	119

The latest report of the Government Insane Asylum shows 332 colored inmates remaining under treatment at the close of the year, of whom 193 were males, an increase of 14 per cent. over the number at the close of the previous year, while the increase in the male population has been less than 3 per cent.

Within the last nine years 21 suicides among people of African extraction have been officially reported; and, even as I write, the local newspapers give the details of a murderous assault and suicide of a young negro man, the son of a preacher, who made an improper demand upon his sweetheart, and, being refused, shot the girl and then killed himself.

To these unfortunate facts may be added the more recent results of collective investigation showing the death-rate among negroes to be 74 per cent. greater than among the whites in five principal cities of the South, covered in the Atlanta University Report. Their analysis, dealing with condition rather than race, affords much food for study and reflection for the sociologist, the criminologist, the physician, and, in fact, for all persons interested

in the civic welfare and moral and physical health of the community. They may see in them further instances of crime and disease as shown by a branch of the human family out of harmony with its conditions and actuated by the thought and feeling brought about by the pressure of moral neurasthenia.

APPENDIX.

[At a meeting of the Council of the Association it was voted to accept the invitation of the Managing Committee of the Congress on Trusts, to be assembled in Chicago, September 13, to send delegates to that body from the American Social Science Association. In conformity to this vote William A. Giles, Esq., of Chicago, Professor Charles H. Henderson, of Chicago University, and Dr. William H. Daly, of Pittsburg, were appointed to represent the Association. The subjoined report, prepared by Mr. W. A. Giles, and subscribed to by the remaining members of the committee, is a most interesting résumé of the proceedings of the Congress. And, while it may not properly appear as a portion of Saratoga Proceedings, it is deemed desirable to publish this Report in Appendix, as a valuable contribution to the economic literature of the Association].

THE CHICAGO "TRUST" CONFERENCES.

BEING A REPORT BY THE COMMITTEE APPOINTED TO REPRESENT
THE ASSOCIATION.

By common consent the trust problem is one of the greatest and most difficult which the United States have ever had to grapple with. The industrial developments of the past decade have been of an amazing character. Consolidation and combination have been the watchwords of the industrial world. Just as the corporation and original stock company had, at an earlier period, displaced the individual, the small partnership, or firm, so has the so-called "trust" been displacing the ordinary corporation. To what extent the "trusts" have secured control of the manufacturing industries is a matter of vague rather than of scientific or accurate knowledge; but the alarm of the people is such that many State legislatures have adopted more or less drastic anti-trust laws, and all political parties have pledged themselves to restrain and regulate, if not to suppress, the combinations. Even in conservative and manufacturing States, political conventions have found it necessary to adopt strongly worded resolutions against monopolies and efforts to restrict production or control prices. There are urgent demands

for national legislation, in view of the futility and barrenness of State statutes; and few doubt that at the next session of Congress the subject will be a prominent and "burning" one.

The industrial revolution has been as stupendous as sudden. How far the process has gone we may infer from the data supplied in the Commercial Year Book, issued by the New York *Journal of Commerce*, a trade organ of authority. In March, 1899, according to this newspaper, the trusts or combinations numbered 353 as against 200 for the same month of the previous year, 1898. The aggregates of capital stock and bonded debt were given as follows:—

Common stock	\$4,247,918,981
Preferred stock	870,575,200
Bonded debt	714,388,661
Stock and bonds	5,832,882,842

The increase for one year amounted to 76 per cent. in the number of organizations and to 60 per cent. in the combined stock and bonded debt. The significance of these figures will appear when we reflect that the Census of 1890 valued the entire capital then employed in the manufacturing and mechanical industries at \$6,525,000,000, which included all the minor and retail establishments of small individual proprietors. In other words, the capitalization of the so-called trusts was equal at the beginning of the present year to about 90 per cent. of the entire manufacturing investments of 1890. The *Journal of Commerce* claims for the totals set forth a close approximation to exactness.

This, then, is the "trust" problem. The Civic Federation of Chicago conceived the idea of calling a national conference to discuss its manifold phases, and to throw as much light as possible on its obscure and debatable terms. Is the trust a natural development, a logical step in industrial evolution? Is it beneficial to society at large, or is it a menace to free industry, economic well-being, and republican institutions? Ought legislation to antagonize it? and, if so, how? These were among the main questions with which the conference was expected to deal. It was not anticipated that the conference would agree upon a definite course of action. It was not expected that a declaration embodying the unanimous opinion of the hundreds of delegates, representing the various geographical and political divisions and the divergent interests of the

country, could be framed and adopted for the guidance of practical law-makers. The purpose of the conference was solely and simply educational. Every school of thought and influential organization was cordially invited to send representatives. The discussion was to be untrammeled, free, fair, and candid.

The conference having proved a pronounced success, it is well to ask what it has accomplished. What contribution has it made to the settlement of the trust problem? What may be justly considered the net result of the debates and interchange of opinions?

The delegates and speakers were, roughly speaking, divided into three classes: (1) those who demanded the "smashing" or annihilation of trusts (the Texas delegation was a unit for this view, and William J. Bryan was the most conspicuous advocate of it); (2) those who advocated or apologized for trusts, and who denied that they had either economic or political effects of a detrimental character; (3) those who admitted the necessity of control and regulation, and who believed that combination is essential and inevitable, though liable to abuse. The disciples of *laissez-faire* were very few; and, strange as it may seem, the thorough-going socialist must be grouped with them. The socialists object to trusts, but they believe that the concentration of capital and the control of industry will go on until the central government will find itself forced to dislodge the few gigantic combinations operated for private profit, and organize one huge governmental combination for the carrying on of manufactures. To the same class we must add the single taxers, or the followers of Mr. Henry George, who hold that land monopoly and the protective system are the only causes of economic ills, of which the trust is one. These theorists would not attack trusts, as such, in any direct way. They would enforce their scheme of taxation and abide by the consequences, confident as they are that under their system no combination could suppress competition and control the market. To these extreme views it will not be necessary to refer again.

But the views of suppressionists and regulationists require elaborate examination. These differ widely in their analysis of the evil effects of trusts, as well as in the remedial or repressive measures they propose.

It should be noted at the outset that no attempt was made to provide an exact definition of the term "trust." It was used in a

loose sense, even by the learned economists and professors who attended the conference. The "trust," in the original and technical sense of the term, has really disappeared. The original trust was essentially a separation of the voting power from that of ownership. The trust principle, as understood in equity, was applied to the control of manufacturing interests. But the courts uniformly declared this method to be illegal,—to constitute a copartnership between corporations, which were bound by their charters to be independent and to remain independent. The fear of forfeiting their charters led to the abandonment of the trust method. It was succeeded by that of formal or informal, written or tacit, contracts controlling production and prices. Such contracts have almost invariably been condemned by the courts as conspiracies in restraint of trade. There are to-day such alliances of independent organizations, but their number is not large. The new, the popular, the strongest form of combination is based on neither the trust principle applied to the control of stock nor on contracts in restraint of trade, but upon the right or freedom of purchase and sale. In other words, many small corporations are acquired by a larger one, perhaps specially organized for the purpose. The smaller corporations cease to exist as independent enterprises, and become mere branches or agencies of the large one. The latter is organized under the laws of one or another of the States which permit such absorption; and, when the gigantic corporation comes into existence, it differs in nothing save in the size and in the scope of its operations from an ordinary corporation. Hence, when we speak of the present anti-trust agitation, we really mean the anti-combination agitation. The demand is for measures calculated to arrest the merging of small corporations into the large ones, to limit the amount of capital under a single management, to prevent a monopoly of the output or market by one or by a few powerful corporations. The conference, realizing this, intentionally used the popular term "trust" as the synonym of the term "combination."

The indictment of combinations and the kind of evidence necessary to reach a just verdict were set forth in an admirable introductory address by Professor J. W. Jenks, of Cornell University. Among the leading questions to be considered, according to this economist, in a discussion of trusts, were these:—

1. Competition *versus* combination. How far does combination

eliminate competition, and how far are the large establishments able to fix prices on a monopolistic basis?

2. In what respect are combinations of capital similar, and in what respects dissimilar, to combinations of labor whose legitimacy no one has ventured to question?

3. To what extent is combination due to special privileges, legislation and illegal discrimination? What effect have the protective tariff, the law of patents, and the discrimination practised by common carriers upon trusts?

4. Overcapitalization,—its extent and influence.

5. The effect of combination on (a) prices; (b) wages; (c) middlemen.

6. Legislation. If any is needed at all, should it be destructive or regulative? In either case should it proceed from the State or from the nation? If from the latter, would it be necessary to amend the Constitution?

It cannot be said that the conference adhered strictly to this outline. Some of these questions were barely touched upon, others inadequately dealt with. The most important of them were warmly and vigorously discussed, but in a general and rather unscientific way.

Taking the first question, the elimination of competition, it was agreed by nearly all of the speakers that the control of a high percentage of the total product (from 75 to 90 per cent.) removed competition as a check, although potential competition continued to restrain or to prevent monopolistic designs. Where monopoly is the result of merit and superiority in a fair field, it was contended by some, notably by W. Bourke Cockran, that society had nothing to fear; for it could be perpetuated only by a policy which rendered competition impossible. So long as the quality of the product was high, and its price no higher than would secure a reasonable return on the capital invested, the monopoly would be beneficial to the consumers; while undue advance of the price or the lowering of the quality must create an opportunity for successful competition, which capital would not be slow to improve. On the other hand, Professor John B. Clark, of Columbia University, disagreed in some respects with this view. Even in the entire absence of privilege and under the freest competition, it was possible, according to him, for a great combination to abuse its power and to maintain monopolistic prices. In what way? By the

power to make discriminating rates. Professor Clark, who distinguished carefully between combination and monopoly, contended, indeed, that the evil power of a trust rests almost solely upon this power. The trust, he declared, could do no harm whatever if it were forced to treat all of its customers alike. At present the trust can make ruinously low prices in one small area where some competition is operating, while sustaining itself by profits made in twenty other areas where it has full possession of the market. But, "if it were under the single necessity of making one price for all buyers, it would ruin itself by any attempt to compete in a cut-throat way."

It is to be inferred from this that, while Professor Clark deems potential competition or the regulation of prices adequate under certain conditions, he is not prepared to assert that it is adequate under existing conditions. He recognizes the possibility of monopoly without actual excellence, differing from Mr. Cockran, who laid down as an absolute test the presence or absence of special privilege to protect the combination against competitors.

Doubtless, those who, like Mr. Bryan, denied that any kind of monopoly, whether aided by special law or not, could be safely tolerated, had in mind the power adverted to by Professor Clark, — that of killing competition by reducing prices below the level of profitable investment in some areas, while practising extortion in other places.

This question of competition is obviously closely connected with that of the effect of combination on prices. Curiously enough, little evidence of a statistical or practical nature was adduced on this most crucial point. There was plenty of assertion, but little proof. Governor Atkinson, of West Virginia, for example, affirmed that the claim of the trusts that they furnished articles cheaper than small corporations could furnish them was true only in a few instances. The president of the Travellers' League, Mr. P. E. Dowe, asserted that the cost of living had increased within two years between 12 and 16 per cent. on the average; and he attributed this increase to the trusts rather than to the industrial revival and the consequent increase in the demand for goods. On the other hand, Mr. F. B. Thurber, of New York, a merchant, maintained that higher prices were the exceptions, not the rule, under trusts. Mr. M. M. Garland, ex-president of the Iron and Steel Workers' Association, admitted that trusts had not and could

not long maintain unnatural or inordinate prices. Mr. Samuel Gompers and other representatives of the trades-unions acknowledged that, where labor was well organized, wages were higher, hours of labor shorter, and conditions better than formerly, in spite of the combinations of capital. Mr. Bourke Cockran claimed that it had not been proved that even in a single industry had prices been raised in consequence of combination.

In truth, candid men must admit that the effect of combination on prices and wages was left an open question by the conference. As for the middlemen, it was claimed that 35,000 commercial travellers alone had been thrown out of employment by the trusts; but no evidence was adduced in substantiation of the claim. The conference did not dwell upon this alleged consequence, because it was felt that, even if the middlemen suffered along with the small independent dealers, the interest of the few could not be placed above that of the great consuming class and that of wage-workers.

With respect to labor combinations the representatives of the trades-unions insisted that it was neither just nor intelligent to apply the same principles to combinations of capital and to combinations of labor. Wage-workers, it was argued, had no corporate privileges and asked nothing from the government. Combinations conferred no rights or immunities upon them that they did not enjoy as individuals. Besides, while combinations of capital excluded small dealers and endeavored to drive them out of business by underselling them, labor combinations were open to all, and were ever anxious to increase their membership. Their hope was to organize all wage-workers and improve the condition of the entire class. It did not occur to these champions of labor that it was possible to have a combination of all the workmen in a given trade for monopoly purposes,—to extort higher wages than the market warranted, and thereby to reduce the return to capital or to force the employers to raise prices. If combinations are injurious, it follows, that the larger the membership, the more complete is the control of the industry, and the greater the power and possibility of abuse. On the whole, it was remarked that the labor delegates to the conference were more concerned to defend trades-unions and to exempt them from anti-trust legislation than to attack capitalistic combinations.

The part played by special law and privilege in breeding and supporting combinations was one of the chief topics of the dis-

cussion. Protection received more attention than any other kind of legislation re-enforcing the tendency to monopoly. The free-traders went to the length of contending that the protective system was the mother of the trusts, while confirmed protectionists denied this conclusion with much warmth. However, a majority of the speakers agreed that, where combinations took advantage of the absence of foreign competition to raise prices, it was right and imperative to withdraw from them the protection of high duties. This proved one of the popular propositions advanced at the conference. Had the conference tried to frame resolutions expressive of the sense of the entire body, it is safe to say that the repeal of the duties on trust-controlled goods, where monopolistic prices were exacted, would have been favored with virtual unanimity. There was absolutely no difference of opinion regarding the flagrant illegality of favoritism and discrimination by railways and other quasi-public corporations, whose unqualified duty it was to be impartial. No doubt whatever was expressed as to the reality and gravity of this factor — improper discrimination — in building up combinations.

The overcapitalization question was handled with vigor, although not at any length. It was maintained by some that, provided the management was honest and efficient, and oppressed neither labor nor the consumers, the amount of capitalization was a matter of indifference to the public at large, no less than to the investors and shareholders. Legal regulation of capitalization, it was pointed out, was difficult and not free from danger. How is good will to be estimated under hard and fast statutes? In a newspaper, for example, how are editorial ability and reputation, based on years of effort and skill, to be officially valued? On the other side, it was argued that inflation and watering of stock were the means employed by dishonest managers to deceive investors and to obscure the facts of the situation.

Omitting minor points, we come to the remedies advocated at the conference. A careful examination will show that some decidedly radical proposals were made by speakers regarded as conservative, while the most aggressive enemies of trusts were comparatively moderate and mild in their remedies. In some cases the analysis of the alleged evil sufficiently indicated the proposed method of relief, while in others the recommendations had to be made specifically and plainly. Without stating the authority of the several

proposals brought forth, they may be briefly summarized as follows:—

1. The solution of the railway problem by the elimination of discrimination and inequitable charges, transportation underlying all other industries and business enterprises.
2. Certainty of incorporation laws, equal treatment of combinations in the various sections and States, and harmony of procedure. Diversity of legislation and local regulation of corporations having a national market make adequate supervision and control impossible.
3. A national law defining the rights and limits of combinations selling their products in the national market, coupled with publicity of their operations and rigid inspection.
4. Publicity without national legislation. The requirement by the State of complete lists from corporations organized under their laws and doing business in their jurisdiction, setting forth the names of officers and stockholders, the salaries and wages paid, the value of the plant, the value of the good will, the stocks and bonds issued, the profits realized, and the prices charged.
5. A law prohibiting combinations from making discriminating rates or prices. Such a law would have to be national.
6. The removal of tariff protection from monopolistic combinations.
7. The abrogation of all patents and copyrights held by trusts, whenever the fact is established before judicial tribunals that any branch of industry has been monopolized by them.
8. The establishment of a board similar to the Interstate Commerce Commission, to which all trusts shall apply after incorporation and to which exhaustive reports shall be made. The terms of the license are not to be illiberal, but include a provision against overcapitalization.
9. A national law for the licensing of corporations to do business in States other than the State of origin, a prerequisite to a license to be found in proof that no monopoly of the market has been or was being attempted by the applicant corporation.

These represent mainly the proposals presented to the delegates. No speaker asked for less than publicity, and no one went beyond proposition No. 9,—a proposition to tax all profits above 6 per

cent. for the benefit of the government, made, strangely enough, by a conservative, ex-Secretary Foster, of Ohio.* Publicity had the greatest number of advocates, some adding other remedies thereto, others regarding it as all-sufficient, if not, indeed, as the only thing compatible with freedom and safety. Publicity, it was thought, would prevent inflation, fraud in management, and extravagant salaries, while it would have the additional important effect of showing possible competitors the opportunities for profitable rivalry, where such opportunities existed.

Next in point of popularity was undoubtedly the proposal for the removal of the tariff from trust-ridden industries. Protectionists conceded that the protective system ought not to be extended to monopolies. Each of the other proposals had but few defenders. As between State and national legislation, it seemed to be felt that Congress was the only power which could successfully deal with combinations. Whether much was to be done or little, the federal government was to do it, appeared to be the prevailing sentiment. Mr. W. I. Foulke, of Indiana, assailed this sentiment with much force and cogency. Would not, he asked, control in any form of the entire manufacturing business of the country convert the national government into an awful despotism, and practically obliterate State lines? What would become of the State's right to make its own incorporation law? Would not the direct and indirect effects of national control or supervision of combinations revolutionize the American idea of sovereignty between the federal government and the States? These objections were not answered, and to the impartial onlooker it was plain that the suggestion of federal control had not been carefully thought out by a single speaker. It was hastily offered as an alternative in view of an admitted failure of State laws for the suppression or regulation of trusts. But whether the alternative was feasible, and was not certain to prove a "remedy worse than the disease," had not been considered.

Reviewing the summary, it may be stated that the delegates who desired to destroy the combinations, root and branch, and to revert to the system of a decade ago,—that of independent, small competing combinations,—were few in number. The overwhelming majority recognized that a new order had been developed, and that fierce international competition, as well as the demands of

* Ex-Senator Blair, of New Hampshire, suggested that transfers of property for trust and monopolistic purposes might be declared void on the ground of public policy.

labor for a higher standard of living, made economy in production and distribution an imperative necessity. Economy was admitted to result from combination, and the only apprehension was that the consumers would not be allowed to share in the benefits. In fine, combination, even without artificial government support, is often in a position to levy extortionate prices; and this danger it was necessary to provide against. What the policy of combination actually has been in the matter of prices is a question upon which the evidence is conflicting. The element of monopoly must be eliminated either by compelling publicity and by fostering of competition or else by legislation, State or national, or both. National legislation would probably require an amendment to the Constitution, enlarging the scope of the interstate commerce clause.

It is interesting to compare this summary with that of the permanent chairman of the conference, Mr. William Wirt Howe, of New Orleans. In his concluding remarks he reviewed the net results of the discussion, as follows:—

It seems to me, simply as an individual of course, that almost every paper or address we have heard has made some admissions or concessions which may form a basis for some conclusions; and, if you will allow me, I will formulate some of them, as follows:—

1. That combinations and conspiracies in the form of trusts or otherwise in restraint of trade or manufacture, which by the consensus of judicial opinion are unlawful, should be so declared by legislation, with suitable sanctions, and, if possible, by a statute uniform in all jurisdictions, and also uniform as to all persons, and that such a statute should be thoroughly enforced, so that those who respect it shall not be at a disadvantage as compared with those who disregard it.

2. That the organization of trading and industrial corporations, whether under general or special laws, be permitted only under a system of careful governmental control, also uniform, if possible, in all jurisdictions, whereby we think that many of the evils of which complaint is now made may be avoided.

3. The objects of the corporations should be confined within limits definite and certain. The issue of stock and bonds, which has been a matter of so much just criticism and complaint, should be guarded with great strictness. If mortgage bonds seem to be required, they should be allowed only for a moderate fraction of the true cash value of the property that secures them. As for issues of stock, they should be safeguarded in every possible way. They should only be allowed either for money or property actually received by the company, and dollar for dollar; and, when the prop-

erty is so conveyed, it should be at an honest appraisement of actual value, so that there may be no watering of stock.

4. And, finally, there should be a thorough system of reports and governmental inspection, especially as to issues of bonds and stock and the status and value of property. Yet at the same time in the matter of trading, business, and industrial companies there are many legitimate secrets, which must be respected by the general public. In short, we need to frankly recognize the fact that trading and industrial corporations are needed to organize the activities of our country, and that they are not to be scolded or belied, but controlled, as we control steam and electricity, which are also dangerous if not carefully managed, but of wonderful usefulness if rightly harnessed to the car of progress.

Except for the omission of the proposal to withdraw from combinations guilty of abuse of this power the aid of the tariff, the chairman's summary leaves nothing to be desired. Even the most uncompromising anti-trust advocates must be surprised at such a result of a few days' discussion. Decidedly, the party of *laissez-faire* fame was without honor in the conference. It may be considered doubtful whether the suggestion and the consent to full federal control so readily given by the stanch advocates of States' rights may not, upon further consideration and reflection, be withdrawn; and whatever action is taken will be mainly by local legislatures. Publicity can be exacted and enforced by the States; and there is no valid reason, apparently, why this should not be done.

Corporations are artificial persons, created for public purposes by the State; and the latter is entitled to impose any condition it may deem necessary for the protection of the public interests. The State is responsible for the combinations it creates, and it is bound to safeguard the people against an oppressive and monopolistic use of the privileges conferred by it.

WILLIAM A. GILES.

CHARLES R. HENDERSON.

W. H. DALY, M.D.

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